

EXHIBIT 16

Docket Report

Case Description

Case ID: 170300712
Case Caption: B. ETAL VS ROOSEVELT INN LLC ETAL
Filing Date: Friday , March 10th, 2017
Location: CH - City Hall
Case Type: 20 - PERSONAL INJURY - OTHER
Status: CLDBR - DEFERRED - BANKRUPTCY

13-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 14-JUN-2021
11:00 PM FILED 08:33 AM

Documents: [Plts Response to RIs MIL re Muellers competence.pdf](#)
[Motion CoverSheet Form](#)

Docket 26-21060526 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 14-JUN-2021
11:44 AM FILED 11:49 AM

Documents: [Plts Response to Alphas MIL re Hantons criminal record.pdf](#)
[KH Exhibits.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 84-21060284 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
12:55 PM FILED 01:54 PM

Documents: [Exhibits to Pltf Resp to Exclude Video \(Roosevelt\).pdf](#)
[REDACTED - Pltf Resp to Exclude Video \(Roosevelt\).pdf](#)
[UNREDACTED - Pltf Resp to Exclude Video \(Roosevelt\).pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 90-21060490 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
01:03 PM FILED 02:19 PM

Documents: [Exhibits to Pltf Resp to Exclude Statements - References to Other Traffickers.pdf](#)
[REDACTED - Pltf Resp to Exclude Statements - References to Other Traffickers.pdf](#)
[UNREDACTED - Pltf Resp to Exclude Statements - References to Other Traffickers.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 91-21060491 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
01:11 PM FILED 02:30 PM

Documents: [Exhibits Pltf Resp to Exclude References to Before-After Relevant Time Period \(Roosevelt\).pdf](#)
[REDACTED - Pltf Resp to Exclude References to Before-After Relevant Time Period \(Roosevelt\).pdf](#)
[UNREDACTED - Pltf Resp to Exclude References to Before-After Relevant Time Period \(Roosevelt\).pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 93-21060493 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
02:20 PM FILED 02:46 PM

Documents: [Exhibits Pltf Resp to Exclude Evidence of Other Crimes at Roosevelt Inn \(Roosevelt\).pdf](#)
[REDACTED - Pltf Resp to Exclude Evidence of Other Crimes at Roosevelt Inn \(Roosevelt\).pdf](#)
[UNREDACTED - Pltf Resp to Exclude Evidence of Other Crimes at Roosevelt Inn \(Roosevelt\).pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 98-21060498 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 14-JUN-2021
02:23 PM FILED 02:47 PM

Documents: [FBI - Exhibits.pdf](#)
[Pltf Resp to Preclude FBI Records \(Alpha\) - REDACTED.pdf](#)
[Pltf Resp to Preclude FBI Records \(Alpha\) - UNREDACTED.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 27-21060427 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
02:52 PM FILED 02:54 PM

Documents: [Exhibits Pltf Resp to Exclude Statements and References to Other Victims.pdf](#)
[REDACTED Pltf Resp to Exclude Statements and References to Other Victims.pdf](#)
[UNREDACTED - Pltf Resp to Exclude Statements and References to Other Victims.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 21-21060521 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
03:42 PM FILED 03:43 PM

Documents: [Exhibits Pltf Resp to Exclude Testimony of Other Plaintiffs \(Alpha\).pdf](#)
[REDACTED - Pltf Resp to Exclude Testimony of Other Plaintiffs \(Alpha\).pdf](#)
[UNREDACTED - Pltf Resp to Exclude Testimony of Other Plaintiffs \(Alpha\).pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 79-21060279 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
03:50 PM FILED 04:00 PM

Documents: [Exhibits Pltf Resp to Preclude Inadmissible Hearsay.pdf](#)
[REDACTED - Pltf Resp to Preclude Inadmissible Hearsay.pdf](#)
[UNREDACTED - Pltf Resp to Preclude Inadmissible Hearsay.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 91-21060291 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 14-JUN-2021
04:32 PM FILED 04:38 PM

Documents: [Exhibits Pltf Resp to Preclude Extraneous Activity \(Roosevelt\).pdf](#)
[REDACTED - Exhibits Pltf Resp to Preclude Extraneous Activity \(Roosevelt\).pdf](#)
[UNREDACTED - Exhibits Pltf Resp to Preclude Extraneous Activity \(Roosevelt\).pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 47-21060447 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 14-JUN-2021
04:42 PM FILED 04:44 PM

Documents: [MIL to Exclude Guelbart Report and Testimony.pdf](#)
[Motion CoverSheet Form](#)

Docket 25-21060525 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 15-JUN-2021
08:02 PM FILED 08:49 AM

Documents: [Exhibits.pdf](#)
[REDACTED.pdf](#)
[UNREDACTED.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 32-21060532 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) NOCHO, KYLE B 15-JUN-2021
09:38 PM FILED 08:50 AM

Documents: [Ex A.pdf](#)
[Ex C.pdf](#)
[Ex D.pdf](#)
[Ex B.pdf](#)
[Ex E.pdf](#)
[REDACTED - Pltfs Resp to Alphas MIL re PAHTL.pdf](#)
[Ex A.pdf](#)
[Ex B.pdf](#)
[Ex C.pdf](#)
[Ex D.pdf](#)
[Ex E.pdf](#)
[Pltfs Resp to Alphas MIL re PAHTL.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 82-21060282 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF WILLIAM A CALANDRA AND M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 15-JUN-2021
09:39 PM FILED 08:50 AM

Documents: [Exhibits Pltfs Response to MIL re news reports, TripAdvisor, and Facebook comments.pdf](#)
[REDACTED Pltfs Response to MIL re news reports, TripAdvisor, and Facebook comments.pdf](#)
[UNREDACTED Pltfs Response to MIL re news reports, TripAdvisor, and Facebook comments.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 28-21060528 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

14-JUN-2021 MTANS - ANSWER (MOTION/PETITION) MARKS, EMILY B 15-JUN-2021
10:24 PM FILED 08:51 AM

Documents: [Pltf Resp to Preclude Non-Party Alpha.pdf](#)
[Exhibits- Pltf Resp to Preclude Non-Party Alpha.pdf](#)
[REDACTED Pltf Resp to Preclude Non-Party Alpha.pdf](#)
[Motion CoverSheet Form](#)
[Confidential Document Form](#)

Docket 89-21060289 ANSWER IN OPPOSITION OF MOTION IN LIMINE FILED. (FILED ON
Entry: BEHALF OF M. B.)

15-JUN-2021 ORDER - ORDER ENTERED/236 NOTICE COHEN, DENIS P 15-JUN-2021
02:25 PM GIVEN 02:25 PM

Documents: [ORDER_538.pdf](#)

32-21060632 UPON CONSIDERATION OF DEFENDANTS ROOSEVELT INN LLC D/B/A
ROOSEVELT INN, ROOSEVELT INN CAFE, ROOSEVELT MOTOR INN, INC. D/B/A
Docket ROOSEVELT MOTOR INN, UFVS MANAGEMENT COMPANY, LLC AND YAGNA
Entry: PATEL'S (DEFENDANTS) MOTION FOR CHANGE OF VENUE, OR IN THE
ALTERNATIVE, CHANGE OF VENIRE, AND ANY RESPONSE(S) THERETO, IT IS
HEREBY ORDERED AND DECREED THAT SAID MOTION DENIED WITHOUT
PREJUDICE. ... BY THE COURT: COHEN, J. 06/15/21

16-JUN-2021 CLDBR - DEFERRED - BANKRUPTCY BYERS MS., 17-JUN-2021
11:56 AM JUSTINA L 09:25 AM

Documents: [Roosevelt Defts Suggestion of Bankruptcy.pdf](#)

PRAECIPE TO DEFER CASE DUE TO PENDING BANKRUPTCY ACTION UNDER CASE
NUMBER: 21-11697 (FILED ON BEHALF OF YAGNA PATEL, UFVS MANAGEMENT
COMPANY LLC, ROOSEVELT MOTOR INN INC AND ROOSEVELT INN LLC)

Civil Administration

E. MEENAN

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of Motion in Limine to Preclude the Trial Testimony and Exclude the Deposition Testimony of Kimberly Mueller, and any response in opposition thereto, it is hereby:

ORDERED and **DECreed** that the Motion in Limine to Preclude the Trial Testimony and Exclude the Deposition Testimony of Kimberly Mueller is **DENIED**.

BY THE COURT

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
KYLE B. NOCHO, ESQUIRE/319270

1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

PLAINTIFF'S RESPONSE TO MOTION IN LIMINE TO PRECLUDE THE TRIAL TESTIMONY AND EXCLUDE THE DEPOSITION TESTIMONY OF KIMBERLY MUELLER

Plaintiff M.B. (“Plaintiff”), by her counsel, Kline & Specter, P.C, responds in opposition to the Motion in Limine to Preclude the Trial Testimony and Exclude the Deposition Testimony of Kimberly Mueller as follows:

1. Denied as stated. By way of further explanation, Plaintiff’s Complaint is a document that speaks for itself, and thus, any characterizations of the factual or legal claims contained therein are specifically denied.
2. Admitted.
3. It is admitted only that Kimberly Mueller was deposed on September 19, 2019. All other averments are denied. By way of further explanation, Mueller’s testimony speaks for itself, and characterizations thereof are specifically denied.
4. Denied as stated. By way of further explanation, Mueller’s testimony speaks for itself, and characterizations thereof are specifically denied.
5. Denied as stated. See response to Paragraph 4.

6. Denied as stated. See response to Paragraph 4.
7. Denied as stated. See response to Paragraph 4.
8. Denied as stated. See response to Paragraph 4.
9. Denied as stated. See response to Paragraph 4.
10. Denied as stated. See response to Paragraph 4.
11. Denied as stated. See response to Paragraph 4.
12. Denied as stated. See response to Paragraph 4.
13. Denied as stated. See response to Paragraph 4.
14. Denied as stated. See response to Paragraph 4.
15. Denied as stated. See response to Paragraph 4. Additionally, this paragraph

consists of legal arguments and conclusions of law to which no response is required, and thus, are specifically denied.

16.-20. Denied. These paragraphs consist of legal arguments and conclusions of law for which no response is required, and any factual allegations contained therein are also denied. By way of further explanation, the determination of a witness' credibility is the role of the jury, not defense counsel. *See, e.g., Com. v. Maconegehy*, 171 A.3d 707, 712 (Pa. 2017) ("determining witness credibility is exclusively the function of jurors"). While it is for the Court's to determine whether a witness is incompetent because of "medical condition or immaturity," *see* Pa.R.E. 601(b), witnesses are presumed competent, *see* Pa.R.E. 601(a). Any characterizations of Mueller's testimony by Defendants is inappropriate grounds for finding that Mueller is "incompetent" under Pennsylvania Rule of Evidence 601.

Even if Mueller's testimony is inconsistent or contradictory, that does not make her an incompetent witness. At the same time, Mueller might have given inconsistent testimony, but even inconsistent statements about whether the witness understands perhaps the most

fundamental aspect of testifying—the duty to do so truthfully—are insufficient to deem the witness incompetent. Thus, the Court should deny this motion and permit Mueller to testify at trial, if called.

WHEREFORE, Plaintiff requests that this Honorable Court enter an Order denying the Motion in Limine to Preclude the Trial Testimony and Exclude the Deposition Testimony of Kimberly Mueller.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

KLINE & SPECTER, P.C.

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(215) 772-1000

Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF HER RESPONSE TO THE
MOTION IN LIMINE TO PRECLUDE THE TRIAL TESTIMONY AND EXCLUDE
THE DEPOSITION TESTIMONY OF KIMBERLY MUELLER**

Plaintiff M.B. (“Plaintiff”), by her counsel, Kline & Specter, P.C., respectfully submits this Memorandum of Law in Support of her Response to the Motion in Limine to Preclude the Trial Testimony and Exclude the Deposition Testimony of Kimberly Mueller.

I. PRELIMINARY STATEMENT

The Roosevelt Defendants want this Court to believe that their former front desk clerk, Kimberly Mueller, who they employed for 7 years, is not competent to testify in a court proceeding. Ms. Mueller was deemed competent by the Roosevelt Defendants to work as a front desk clerk at the Roosevelt Inn. Now, the Roosevelt Defendants claim Ms. Mueller is not competent without offering any medical proof or support for their allegation. A witness is presumptively competent and merely contradicting oneself in a deposition is insufficient grounds to render a witness incompetent. Any characterizations of Mueller’s testimony by Defendants is inappropriate grounds for finding that Mueller is “incompetent” under Pennsylvania Rule of

Evidence 601. Without more than Defendants' unsupported assertions that the Roosevelt Defendants' former desk clerk is incompetent, the Court should deny their motion.

II. QUESTION PRESENTED

1. Should this Honorable Court permit Mueller to testify at trial?

SUGGESTED ANSWER: Yes. *Mueller is presumptively competent and merely contradicting oneself in a deposition is insufficient grounds to render a witness "incompetent."*

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

Plaintiff was the victim of sex trafficking that occurred at the Roosevelt Inn when she was just fourteen years old from about January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha, as an additional defendant.

Mueller was employed at the Roosevelt Inn as a front desk clerk for about seven years, including the time period involved in Plaintiff's allegations. Her testimony, including regarding procedures in place at the front desk, are important to this case. On September 19, 2019, Mueller gave a deposition in this case, and testified under oath in response to questions by counsel for Plaintiff and Defendants.

IV. THE COURT SHOULD NOT PRECLUDE MS. MUELLER FROM TESTIFYING AT TRIAL OR HER DEPOSITION TESTIMONY

Even if Kimberly Mueller's deposition testimony was inconsistent at times, there is no evidence to suggest that she is incompetent as a witness. It is Defendants' burden to prove that

Mueller is incompetent by “clear and convincing evidence.” *See Com. v. Boich*, 982 A.2d 102, 110 (Pa. Super. Ct. 2009). They have not done so.

As a general rule, every person is competent to be a witness. *See Pa.R.E. 601(a)*. A trial court can deem a witness “incompetent,” when, based on “a mental condition or immaturity,” the person meets one of four conditions: (1) the person is incapable of perceiving accurately; (2) the person is unable to express himself so as to be understood either directly or through an interpreter; (3) the person has an impaired memory; or (4) the person does not sufficiently understand the duty to tell the truth. *See Pa.R.E. 601(b)*. This determination is within the discretion of the trial court. *See In Interest of J.R.*, 648 A.2d 28, 31 (Pa. Super. Ct. 1994). Here, the Roosevelt Defendants have not offered any proof that Ms. Mueller has a medical condition that precludes her from her testifying.

Merely contradicting oneself is insufficient to render a witness incompetent. *See In Interest of J.R.*, 648 A.2d at 32-33; *see also Com. v. Levenson*, 422 A.2d 1355, 1358-59 (Pa. Super. Ct. 1980) (“If a witness has made inconsistent or contradictory statements they may affect his credibility but they do not make him an incompetent witness.”) (cleaned up). In *J.R.*, the witness was a four-year-old victim of illegal sexual contact. 648 A.2d at 30. The witness indicated that she would be punished if she lied, but later repeatedly testified that it was “good to lie.” *Id.* at 32-33. Despite this inconsistency, the Superior Court concluded that the trial court did not abuse its discretion in finding that the victim-witness was competent. *Id.* A witness’ ability to understand the most fundamental aspect of testifying—the duty to do so truthfully—is sufficient to deem the witness competent. *See J.R.*, 648 A.2d at 32-33.

Defendants’ attempts to forecast Mueller’s trial testimony as “confusing, misleading, unnecessarily cumulative and . . . unfairly prejudicial” are meritless as they cite no authority for the proposition of finding a witness incompetent purely based on deposition testimony. *See*

Defendants' Motion at 10. Similarly, their concerns that testifying would be detrimental to Mueller's mental health are unsupported by any medical evidence. *See Id.* The remaining determination on Mueller's credibility as a witness is for the jury to make. *See Com. v. Maconegehy*, 171 A.3d 707, 712 (Pa. 2017). Accordingly, the Court should deny this motion and permit Mueller to testify at trial, if called.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY:

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Response to the Motion in Limine to Preclude the Trial Testimony and Exclude the Deposition Testimony of Kimberly Mueller*** was filed with the Court on June 13, 2021 and served by electronic filing upon counsel of record:

Justina L. Byers, Esquire
Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Blank Rome LLP
One Logan Square, 130 North 18th Street
Philadelphia, PA 19103

*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
UFVS Management Company, LLC and Yagna Patel*

Thomas P. Wagner, Esq.
Robert W. Stanko, Esq.
Melanie J. Foreman, Esq.
Marshall Dennehey Warner Coleman & Goggin
2000 Market Street, Suite 2300
Philadelphia, PA 19103

President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

Daiquan Davis, Register No. 72304-066
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Pro Se Defendant

KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration
F. HEWITT

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
Plaintiff	:	
	:	
v.	:	
	:	MARCH TERM, 2017
ROOSEVELT INN LLC	:	
<i>d/b/a ROOSEVELT INN and</i>	:	
<i>ROOSEVELT INN CAFE and</i>	:	
ROOSEVELT MOTOR INN	:	
<i>d/b/a ROOSEVELT MOTOR INN and</i>	:	NO. 00712
UFVS MANAGEMENT COMPANY, LLC	:	
and YAGNA PATEL and	:	
ALPHA-CENTURION SECURITY, INC.	:	
	:	
Defendants	:	<u>JURY TRIAL DEMANDED</u>

ORDER

AND NOW, this _____ day of June 2021, upon consideration of the Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, to Exclude Video Footage from January 2, 2015, Control No. 21060490, and any Response thereto, it is hereby **ORDERED** and **DECREED** that Defendants' Motion is **DENIED**.

BY THE COURT:

J.

MARSHALL DENNEHEY WARNER

COLEMAN & GOGGIN

BY: Thomas P. Wagner, Esquire

Identification No.: 27145

BY: Robert W. Stanko, Esquire

Identification No. 208830

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Identification No.: 317951

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Attorneys for Defendant,
Alpha-Centurion Security, Inc.

M.B.

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS

v.

:
: MARCH TERM, 2017

ROOSEVELT INN LLC

:

d/b/a ROOSEVELT INN and

:

ROOSEVELT INN CAFE and

:

ROOSEVELT MOTOR INN

: NO. 00712

d/b/a ROOSEVELT MOTOR INN and

:

UFVS MANAGEMENT COMPANY, LLC

:

and YAGNA PATEL and

:

ALPHA-CENTURION SECURITY, INC.

: JURY TRIAL DEMANDED

**RESPONSE OF DEFENDANT, ALPHA-CENTURION SECURITY, INC., IN
OPPOSITION TO THE MOTION IN LIMINE OF DEFENDANTS, ROOSEVELT INN
LLC D/B/A ROOSEVELT INN AND ROOSEVELT INN CAFÉ, ROOSEVELT MOTOR
INN, INC. D/B/A ROOSEVELT MOTOR INN, UFVS MANAGEMENT COMPANY, LLC
AND YAGNA PATEL TO EXCLUDE VIDEO FOOTAGE FROM JANUARY 2, 2015**

Defendant, Alpha-Centurion Security, Inc. ("Responding Defendant"), by and through its counsel, Marshall Dennehey Warner Coleman & Goggin, hereby responds to the Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, to Exclude Video Footage from January 2, 2015 as follows:

1. Admitted that Plaintiff's allegations have changed considerably over the course of this litigation, and that her claims are for common law negligence. Plaintiff's allegations against Responding Defendant are denied, as set forth in Responding Defendants' Answer to Plaintiff's Fourth Amended Complaint with New Matter and New Matter Cross-Claims.

2. Admitted only that a shooting occurred at the Roosevelt Inn on March 31, 2014 and that the shooting itself has no relation to Plaintiff or her claims. The remainder of the corresponding allegations are denied.

3. Admitted only that a shooting occurred at the Roosevelt Inn on March 31, 2014, and that it was captured on the Roosevelt Inn Defendants' surveillance footage. The remainder of the allegations are denied and the video footage speaks for itself.

4. Admitted that the Roosevelt Defendants filed a separate Motion regarding the March 31, 2014 footage, and that the instant Motion seeks to preclude the January 2, 2015 footage only. Also admitted that the shooting has no relevance to Plaintiff's claims. The remainder of the allegations are denied and the video footage speaks for itself.

5. Admitted only that Responding Defendant sought leave to amend its cross-claims, leave was granted, and Responding Defendant amended its Cross Claims accordingly. The nature and substance of Responding Defendant's cross-claims speaks for itself. The remainder of the allegations are denied.

6. The characterizations in the corresponding paragraph of the Stone Report and Responding Defendant's reasoning for retaining him are denied. The Stone Report is a writing, the content of which speaks for itself.

7. Admitted only that Responding Defendant produced an expert report from Jake Stone. The Roosevelt Defendants' characterization of Mr. Stone's Expert Report are denied. The

Stone Report is a writing, the content of which speaks for itself. By way of further answer, the corresponding allegations demonstrate precisely why Mr. Stone's analysis and findings should not be precluded. His report details various deficiencies in the security surveillance system that only the Roosevelt Defendants were able to access and control. Indeed, Mr. Stone's Report clearly details deficiencies of the Roosevelt Defendants' security cameras – cameras to which Responding Defendant had no ability to access let alone control. The Roosevelt Defendants' argument suggests that Mr. Stone's analysis is irrelevant because he did not conclude that portions of the video had been intentionally destroyed, only that the security cameras were poorly configured. This is precisely why Stone's analysis of the video is relevant to the instant case.

8. Denied. The January 2, 2015 video footage is relevant. Together with the March 31, 2014 video footage, it was the *only* video produced in this litigation from the Roosevelt Defendants' security camera system. Mr. Stone analyzes the January 2, 2015 video in order to provide an expert opinion as to the manner in which the camera system operated. The Roosevelt Defendants claim they were not negligent because their internal security protocols, including their camera system, were reasonable. Defendant Yagna Patel testified that the security system at the Roosevelt Inn has been in place for “[t]wenty years.” Patel Dep. (7/19/18), 27:2-20, attached as Exhibit A. The Roosevelt Defendants plan to present the testimony of security expert Norman Bates to offer the conclusion that the surveillance system was a component part of the hotel security program. A copy of Mr. Bates' Report is attached as Exhibit B. Mr. Bates champions the existence and operation of the surveillance system in support of his findings that the hotel's security program was reasonable. He points out that “management used the camera system to assist in their control over the premises.” Ex. B, at pg. 15. He then goes on to criticize

Responding Defendant despite the undisputed fact that Responding Defendant had no access to the surveillance system. To allow the Roosevelt Defendants to champion the existence of the surveillance system but at the same time prohibit Responding Defendant from presenting evidence of deficiencies in its operation is unfair and prejudicial to Responding Defendant.

9. Admitted that Plaintiff's allegations are as reflected in the corresponding paragraph. Plaintiff's allegations are denied, as set forth in Responding Defendants' Answer to Plaintiff's Fourth Amended Complaint with New Matter and New Matter Cross-Claims. Further, the January 2, 2015 is analyzed by Mr. Stone – and will be introduced into evidence – not for what is on the video but for what is NOT on the video. Mr. Stone will testify to the manner in which the Roosevelt Defendants' security cameras were improperly calibrated and poorly installed. The deficiencies relating to a surveillance system over which the Roosevelt Defendants exercised exclusive control is certainly relevant to the subject litigation, where one of the central issues is whether Responding Defendant was negligent in its execution of its limited security services at the subject property. To allow the Roosevelt Defendants to champion the existence of the surveillance system but at the same time prohibit Responding Defendant from presenting evidence of deficiencies in its operation is unfair and prejudicial to Responding Defendant.

10. The corresponding paragraph constitutes legal conclusions to which no response is deemed required.

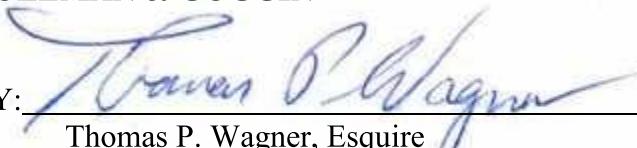
11. Denied. The January 2, 2015 video footage is relevant to show the configuration and operation of the surveillance system in place at the hotel. Together with the March 31, 2014 video footage, it was the *only* video produced in this litigation from the Roosevelt Defendants' security camera system. Mr. Stone analyzes the January 2, 2015 video in order to provide an

expert opinion as to the manner in which the camera system operated. The deficiencies relating to a surveillance system over which the Roosevelt Defendants exercised exclusive control is certainly relevant to the subject litigation, where one of the central issues is whether Responding Defendant was negligent in its execution of its limited security services at the subject property. To allow the Roosevelt Defendants to champion the existence of the surveillance system but at the same time prohibit Responding Defendant from presenting evidence of deficiencies in its operation is unfair and prejudicial to Responding Defendant. Moreover, Yagna Patel testified that the surveillance system had not changed in "twenty years." *See* Ex. A.

12. The corresponding paragraph constitutes legal conclusions to which no response is deemed required.

WHEREFORE, for the foregoing reasons, and for the reasons more fully set forth in the accompanying Memorandum of Law, Defendant, Alpha-Centurion Security, Inc., respectfully requests that this Honorable Court deny the Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, to Exclude Video Footage from January 2, 2015, Control No. 21060490.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY: 

Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
Melanie J. Foreman, Esquire
Attorneys for Defendant,
Alpha-Centurion Security, Inc.

Dated: June 14, 2021

MARSHALL DENNEHEY WARNER

COLEMAN & GOGGIN

BY: Thomas P. Wagner, Esquire

Identification No.: 27145

BY: Robert W. Stanko, Esquire

Identification No. 208830

BY: Melanie J. Foreman, Esquire

Identification No.: 317951

2000 Market Street, Suite 2300

Philadelphia PA 19103

(215) 575-2600

Attorneys for Defendant,
Alpha-Centurion Security, Inc.

M.B.

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS

v.

:

:

ROOSEVELT INN LLC

: MARCH TERM, 2017

d/b/a ROOSEVELT INN and

:

ROOSEVELT INN CAFE and

:

ROOSEVELT MOTOR INN

: NO. 00712

d/b/a ROOSEVELT MOTOR INN and

:

UFVS MANAGEMENT COMPANY, LLC

:

and YAGNA PATEL and

:

ALPHA-CENTURION SECURITY, INC.

: JURY TRIAL DEMANDED

**MEMORANDUM OF LAW IN SUPPORT OF RESPONSE OF
DEFENDANT, ALPHA-CENTURION SECURITY, INC., IN OPPOSITION
TO MOTION IN LIMINE OF DEFENDANTS, ROOSEVELT INN LLC D/B/A
ROOSEVELT INN AND ROOSEVELT INN CAFÉ, ROOSEVELT MOTOR INN, INC.
D/B/A ROOSEVELT MOTOR INN, UFVS MANAGEMENT COMPANY, LLC
AND YAGNA PATEL, TO EXCLUDE VIDEO FOOTAGE FROM JANUARY 2, 2015**

I. MATTER BEFORE THE COURT

Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, to Exclude Video Footage from January 2, 2015, Control No. 21060490.

II. QUESTION PRESENTED

Whether the Court should permit Responding Defendant to admit into evidence the January 2, 2015 footage from the Roosevelt Inn where the video evidence is relevant to the operation of the surveillance system generally.

Suggested Answer: YES.

III. FACTS

Plaintiff alleges she was sexually trafficked at the Roosevelt Inn from approximately April 2014 through early June 6, 2014. She filed suit against Defendants alleging claims of common law negligence. Plaintiff's claims are very much in dispute.

Responding Defendant produced an Expert Report from Jake Stone, who analyzed surveillance video footage from the Roosevelt Inn for its reliability and completeness. The *only* videos made available to Responding Defendant in this litigation were from March 31, 2014 and January 2, 2015. Mr. Stone reviewed the videos and found certain deficiencies in the configuration of the security system that resulted in various activity not being recorded at the subject property.¹

The Roosevelt Defendants seek to preclude evidence and testimony regarding the January 2, 2015 video because the time period is irrelevant to Plaintiff's claims.

IV. ARGUMENT

As a threshold matter, Responding Defendant does not dispute the fact that January 2, 2015 is beyond the time that Plaintiff alleges she was at the hotel. Responding Defendant seeks to introduce the testimony of Mr. Stone and his analysis of the video in effort to defend the Roosevelt Defendants claims against it. The January 2, 2015 is analyzed by Mr. Stone – and will be introduced into evidence – not for what is on the video but for what is NOT on the video. Mr.

¹ The timing of the videos has no bearing on their relevance as the actual content of the video is irrelevant to Mr. Stone's analysis. Yagna Patel testified that the surveillance system at the hotel has been in place for "twenty years." Ex. A.

Stone will testify to the manner in which the Roosevelt Defendants' security cameras were improperly calibrated and poorly installed. The deficiencies relating to a surveillance system over which the Roosevelt Defendants exercised exclusive control is certainly relevant to the subject litigation, where one of the central issues is whether Responding Defendant was negligent in its execution of its limited security services at the subject property.

The Roosevelt Defendants plan to present the testimony of Norman Bates to offer the conclusion that the surveillance system was a component part of the hotel security program. Mr. Bates champions the existence and operation of the surveillance system in support of his findings that the hotel's security program was reasonable. He points out that "management used the camera system to assist in their control over the premises." Ex. B, at pg. 15. He then goes on to criticize Responding Defendant despite the undisputed fact that Responding Defendant had no access to the surveillance system. To allow the Roosevelt Defendants to champion the existence of the surveillance system but at the same time prohibit Responding Defendant from presenting evidence of deficiencies in its operation is unfair and prejudicial to Responding Defendant.

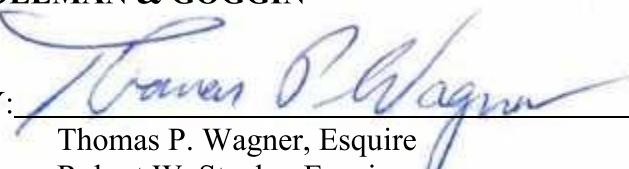
One of the central issues in this litigation is whether Responding Defendant was negligent in its execution of its limited security services at the subject property. The evidence of record is clear that the Roosevelt Defendants did not provide Responding Defendant access to the Roosevelt Inn camera system. Whether the security system operated correctly is therefore very relevant to Responding Defendant's liability defenses. The Roosevelt Defendants' argument that the date of the video alone should preclude admissibility of the video ignores the testimony of Mr. Patel, who confirmed that the surveillance system has been in place for "twenty years." Ex. A.

Accordingly, under Pennsylvania Rules of Evidence 401, 402, and 403, the Court should permit Mr. Stone to opine on the January 2, 2015 video.

V. REQUESTED RELIEF

For the foregoing reasons, Defendant, Alpha-Centurion Security, Inc., respectfully requests that this Honorable Court deny the Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, to Exclude Video Footage from January 2, 2015, Control No. 21060490.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY: 

Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
Melanie J. Foreman, Esquire
Attorneys for Defendant,
Alpha-Centurion Security, Inc.

Dated: June 14, 2021

CERTIFICATE OF SERVICE

I, Thomas P. Wagner, hereby certify that a true and correct copy of the Response of Defendant, Alpha-Centurion Security, Inc., in Opposition to Motion *in Limine* of the Roosevelt Defendants to Exclude Video Footage from January 2, 2015 (Control No. 21060490), was served by electronic filing to all parties listed below on the date set forth below:

Thomas R. Kline, Esquire
Nadeem A. Bezar, Esquire
Emily B. Marks, Esquire
Kline & Specter, P.C.
1525 Locust Street
Philadelphia, PA 19101
Attorneys for minor-Plaintiff

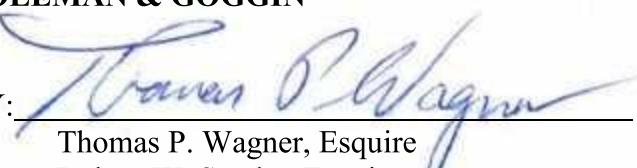
Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome, LLP
130 North 18th Street
Philadelphia, PA 19103
*Attorneys for Roosevelt Inn LLC d/b/a
Roosevelt Inn and Roosevelt Inn Café,
Roosevelt Motor Inn, Inc. d/b/a Roosevelt
Motor Inn, UFVS Management Company,
LLC and Yagna Patel*

The following parties were served via First Class Mail via the date set forth below:

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U.S. Penitentiary
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Terre Haute, IN 47808

Abdul Lopez
USP Tucson
U.S. Penitentiary
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Tucson, AZ 85734

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY: 

Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
Melanie J. Foreman, Esquire
Attorneys for Defendant,
Alpha-Centurion Security, Inc.

Dated: June 14, 2021

WHEREFORE, for the foregoing reasons, and for the reasons more fully set forth in the accompanying Memorandum of Law, Defendant, Alpha-Centurion Security, Inc., respectfully requests that this Honorable Court deny the Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, to Preclude and Exclude the Expert Report and Testimony of Jake Stone, Control No. 21060524.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY: 

Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
Melanie J. Foreman, Esquire
Attorneys for Defendant,
Alpha-Centurion Security, Inc.

Dated: June 14, 2021

MARSHALL DENNEHEY WARNER

COLEMAN & GOGGIN

BY: Thomas P. Wagner, Esquire

Identification No.: 27145

BY: Robert W. Stanko, Esquire

Identification No. 208830

BY: Melanie J. Foreman, Esquire

Identification No.: 317951

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Philadelphia PA 19103

(215) 575-2600

Attorneys for Defendant,
Alpha-Centurion Security, Inc.

M.B.

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS

v.

:

:

: MARCH TERM, 2017

ROOSEVELT INN LLC

:

d/b/a ROOSEVELT INN and

:

ROOSEVELT INN CAFE and

:

ROOSEVELT MOTOR INN

: NO. 00712

d/b/a ROOSEVELT MOTOR INN and

:

UFVS MANAGEMENT COMPANY, LLC

:

and YAGNA PATEL and

:

ALPHA-CENTURION SECURITY, INC.

: JURY TRIAL DEMANDED

MEMORANDUM OF LAW IN SUPPORT OF RESPONSE OF DEFENDANT, ALPHA-CENTURION SECURITY, INC., IN OPPOSITION TO MOTION IN LIMINE OF DEFENDANTS, ROOSEVELT INN LLC D/B/A ROOSEVELT INN AND ROOSEVELT INN CAFÉ, ROOSEVELT MOTOR INN, INC. D/B/A ROOSEVELT MOTOR INN, UFVS MANAGEMENT COMPANY, LLC AND YAGNA PATEL, TO PRECLUDE AND EXCLUDE THE EXPERT REPORT AND TESTIMONY OF JAKE STONE

I. MATTER BEFORE THE COURT

Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company,

LLC and Yagna Patel, Preclude and Exclude the Expert Report and Testimony of Jake Stone, Control No. 21060524.

II. QUESTION PRESENTED

Whether the Court should permit Responding Defendant to introduce the Expert Report and testimony of Jake Stone, where Mr. Stone's opinions regarding the unreliability and incompleteness of the Roosevelt Defendants' camera system is relevant to facts at issue.

Suggested Answer: YES.

III. FACTS

Plaintiff alleges she was sexually trafficked at the Roosevelt Inn from approximately April 2014 through early June 6, 2014. She filed suit against Defendants alleging claims of common law negligence. Plaintiff's claims are very much in dispute.

Responding Defendant produced an Expert Report from Jake Stone, who analyzed surveillance video footage from the Roosevelt Inn for its reliability and completeness. The *only* videos made available to Responding Defendant in this litigation were from March 31, 2014 and January 2, 2015. Mr. Stone reviewed the videos and found certain deficiencies in the configuration of the security system that resulted in various activity not being recorded at the subject property.¹

The Roosevelt Defendants seek to preclude Mr. Stone's report and testimony because it does not "pass the requirements set forth in Rule 702 and *Frye*" and could confuse or mislead the jury. *Id.*, at ¶14, 17. The Roosevelt Defendants' arguments are misplaced and their motion must be denied.

¹ The timing of the videos has no bearing on their relevance as the actual content of the video is irrelevant to Mr. Stone's analysis. Yagna Patel testified that the surveillance system at the hotel has been in place for "twenty years." Ex. A.

IV. ARGUMENT

Importantly, the Roosevelt Defendants motion challenges “neither Stone’s qualifications, nor his methodologies.” Roosevelt Defendants’ Motion, at ¶15. Rather, they simply argue that Mr. Stone will not assist the trier of fact under Pennsylvania Rule of Evidence 702 because his conclusions do not support Responding Defendant’s cross-claim of spoliation. The Roosevelt Defendants’ argument is flawed.

The Roosevelt Defendants’ argument suggests that Mr. Stone’s analysis is irrelevant because he did not conclude that portions of the video had been intentionally destroyed, only that the security cameras were poorly configured. This is precisely why Stone’s analysis of the video is relevant to the instant case. The Roosevelt Defendants plan to present the testimony of Mr. Bates to offer the conclusion that the surveillance system was a component part of the hotel security program. Mr. Bates champions the existence and operation of the surveillance system in support of his findings that the hotel’s security program was reasonable. He points out that “management used the camera system to assist in their control over the premises.” Ex. B, at pg. 15. He then goes on to criticize Responding Defendant despite the undisputed fact that Responding Defendant had no access to the surveillance system. To allow the Roosevelt Defendants to champion the existence of the surveillance system but at the same time prohibit Responding Defendant from presenting evidence of deficiencies in its operation is unfair and prejudicial to Responding Defendant.

One of the central issues in this litigation is whether Responding Defendant was negligent in its execution of its limited security services at the subject property. The evidence of record is clear that the Roosevelt Defendants did not provide Responding Defendant access to the Roosevelt Inn camera system. Whether the security system operated correctly is therefore

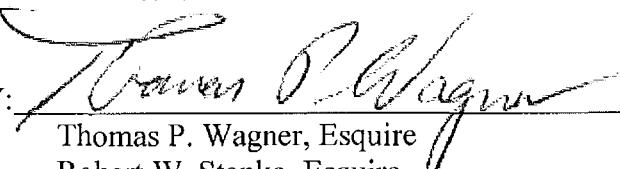
very relevant to Responding Defendant's liability defenses. In fact, Responding Defendants' Cross-Claims against the Roosevelt Defendants allege that Plaintiff's alleged injuries/damages "were caused by the actions, omissions, spoliation, negligence, carelessness and/or recklessness, and other liability producing conduct on the part of" the Roosevelt Defendants. *See* Responding Defendants' Answer to Plaintiff's Fourth Amended Complaint with New Matter and New Matter Cross-Claims. An analysis of the Roosevelt Defendants' video surveillance system is certainly relevant to these claims. Mr. Stone's testimony will assist the trier of fact to understand why gaps exist in the security camera footage. The Roosevelt Inn Defendants' Motion should be denied. *See Reardon v. Meehan*, 227 A.2d 667, 670 (Pa. 1967) ("The employment of testimony of an expert rises from necessity, a necessity born of the fact that the subject matter of the inquiry is one involving special skills and training beyond the ken of the ordinary layman...").

V. REQUESTED RELIEF

For the foregoing reasons, Defendant, Alpha-Centurion Security, Inc., respectfully requests that this Honorable Court deny the Motion *in Limine* of Defendants, Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel, Preclude and Exclude the Expert Report and Testimony of Jake Stone, Control No. 21060524.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY:


Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
Melanie J. Foreman, Esquire
Attorneys for Defendant,
Alpha-Centurion Security, Inc.

Dated: June 14, 2021

CERTIFICATE OF SERVICE

I, Thomas P. Wagner, hereby certify that a true and correct copy of the Response of Defendant, Alpha-Centurion Security, Inc., in Opposition to Motion *in Limine* of the Roosevelt Inn Defendants to Preclude and Exclude the Expert Report and Testimony of Jake Stone, Control No. 21060524, was served by electronic filing to all parties listed below on the date set forth below:

Thomas R. Kline, Esquire
Nadeem A. Bezar, Esquire
Emily B. Marks, Esquire
Kline & Specter, P.C.
1525 Locust Street
Philadelphia, PA 19101
Attorneys for minor-Plaintiff

Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome, LLP
130 North 18th Street
Philadelphia, PA 19103
*Attorneys for Roosevelt Inn LLC d/b/a
Roosevelt Inn and Roosevelt Inn Café,
Roosevelt Motor Inn, Inc. d/b/a Roosevelt
Motor Inn, UFVS Management Company,
LLC and Yagna Patel*

The following parties were served via First Class Mail via the date set forth below:

Daiquan Davis
USP Terre Haute
U.S. Penitentiary
P. O. Box 33
Terre Haute, IN 47808

Abdul Lopez
USP Tucson
U.S. Penitentiary
P. O. Box 24550
Tucson, AZ 85734

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY:

Thomas P. Wagner, Esquire
Robert W. Stanko, Esquire
Melanie J. Foreman, Esquire
Attorneys for Defendant,
Alpha-Centurion Security, Inc.

Dated: June 14, 2021

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
KYLE B. NOCHO, ESQUIRE/319270

1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

PLAINTIFF'S ANSWER TO THE ROOSEVELT DEFENDANTS' MOTION IN LIMINE
TO PRECLUDE AND EXCLUDE THE EXPERT REPORT AND TESTIMONY OF
MICHELLE GUELBART

Plaintiff M.B. ("Plaintiff"), by her counsel, Kline & Specter, P.C, responds to the Motion in Limine to Preclude and Exclude the Expert Report and Testimony of Michelle Guelbart as follows:

1.-28. Denied. These paragraphs consist of legal argument and purported conclusions of law to which no response is required and therefore all allegations are denied. All factual averments are specifically denied.

By way of further response, Plaintiff will not be calling Michelle Guelbart to testify as an expert witness at trial. **Therefore, the Roosevelt Defendants' Motion in Limine should be Denied as Moot.**

WHEREFORE, Plaintiff requests that this Honorable Court enter an Order denying the Roosevelt Defendants' Motion in Limine as Moot.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY:

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
KYLE B. NOCHO, ESQUIRE/319270

1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN RESPONSE TO THE ROOSEVELT
DEFENDANTS' MOTION IN LIMINE TO PRECLUDE AND EXCLUDE THE EXPERT
REPORT AND TESTIMONY OF MICHELLE GUELBART**

Plaintiff will not be calling Michelle Guelbart to testify at trial as an expert witness.

Therefore, Plaintiff respectfully requests this Honorable Court to **DENY** the Roosevelt
Defendants' Motion in Limine as **MOOT**.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY:

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Response to the Motion in Limine to Exclude the Trial Testimony and Report of Michelle Guelbart*** was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Justina L. Byers, Esquire
Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Blank Rome LLP
One Logan Square, 130 North 18th Street
Philadelphia, PA 19103

*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
UFVS Management Company, LLC and Yagna Patel*

Thomas P. Wagner, Esq.
Robert W. Stanko, Esq.
Melanie J. Foreman, Esq.
Marshall Dennehey Warner Coleman & Goggin
2000 Market Street, Suite 2300
Philadelphia, PA 19103

President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

Daiquan Davis, Register No. 72304-066
USP Terre Haute
U.S. Penitentiary
P.O. Box 33
Terre Haute, IN 47808
Pro Se Defendant

Abdul Lopez, Register No. 69643-066
USP Tucson
U.S. Penitentiary
P.O. Box 24550
Tucson, AZ 85734
Pro Se Defendant

KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

E. MEENAN

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of upon consideration of Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's Motion to Preclude and Exclude FBI Materials, and any response thereto, it is hereby:

ORDERED and **DECreed** that Defendants' Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
KYLE B. NOCHO, ESQUIRE/319270

1525 Locust Street
Philadelphia, Pennsylvania 19102
(215) 772-1000

Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S ANSWER IN OPPOSITION THE ROOSEVELT DEFENDANTS'
MOTION IN LIMINE TO PRECLUDE AND EXCLUDE FBI MATERIALS

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine of the Roosevelt Defendants' Motion to Preclude and Exclude FBI materials as follows:

1. Denied. Plaintiff's Complaint is a document that speaks for itself and any mischaracterization of the Complaint is denied.
2. Denied as stated. Lopez and Davis admitted to trafficking M.B.
3. Admitted. No party objected to the Subpoena to the FBI for materials pertaining to the Roosevelt Inn.
4. Denied. 8/6/19 Correspondence from United States Attorney William McSwain is a document that speaks for itself and any characterization is denied.
5. Admitted.
6. Denied. The 6.18.20 correspondence from USAO is a document that speaks for itself and characterization of the letter is denied.

7. Denied. The 6.18.20 correspondence from USAO is a document that speaks for itself and characterization of the letter is denied.

8. Denied. The 11.11.20 correspondence is a document that speaks for itself and any characterization of the letter is denied. No party objected to the Subpoena to the FBI.

9. Denied. The 12.10.20 correspondence from the USAO is a document that speaks for itself and any characterization is denied.

10. Admitted only that FBI materials were produced on March 19, 2021.

11. Denied. Defendants have no legal or factual basis to preclude FBI Special Agent Getson from testifying at trial or the information contained in the records from the FBI that were produced in this case. The testimony of FBI Special Agent Getson and information in the FBI records are relevant to show the open and obvious commercial sex activity, including prostitution and sex trafficking, that was happening at the Roosevelt Inn. A formal investigation targeting the owners and operators of the Roosevelt Inn under the White-Slave Traffic Act, also called the Mann Act, for profiting from commercial sex activity was initiated on June 17, 2014. Preceding events caused the FBI to open the investigation that are described in the records produced by the FBI. At the time the investigation was open the Philadelphia's Child Exploitation Task Force was conducting approximately 16 investigations into sex trafficking activities which had a connection to the Roosevelt Inn that resulted in the recovery of multiple juveniles.

[FBI000002].¹ The records also discuss multiple investigations in 2013 where children who were being sold for sex were recovered from the Roosevelt Inn. [FBI00002-3]. Further, Counsel for the Roosevelt Defendants opened the door to evidence of events that occurred after June

¹ The FBI records are subject to a protective order. Therefore, the FBI records are not attached to this Motion in Limine but will be provided to the Court upon request

2014 through his own questioning of Co-Defendant Daiquan Davis in this trial. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014, to support their claim that Roosevelt staff was unaware of commercial sex activity. Therefore, Plaintiff should be permitted to introduce evidence and testimony to the contrary.

12. Denied. This is not a basis to preclude information contained in the FBI records but may be the subject matter of cross-examination.

13. Denied. See response to Paragraph 11.

14. Denied. Plaintiff's counsel is well-aware of the Pennsylvania Rules of Evidence regarding hearsay. Just because there may be some hearsay statements within the FBI records does not make all of the information contained in the records in admissible.

15. Denied. The FBI records detail conversations FBI Special Agent Getson had with a desk clerk at the Roosevelt Inn who noticed people going in and out of the rooms on the security cameras. The agent told the desk clerk he was "working the girls" but they would not stay overnight and the desk clerk stated this was fine. [FBI000224]. FBI Special Agent Getson asked a front desk clerk, 30 year-old Indian female, if there were girls available. The clerk responded that they were usually there late in the evening or on weekend when many prostitutes were available [FBI000284].

There records also indicate Special Agent Getson asked Fred Keller the bartender why it was so quiet in the bar. Keller stated there was a large disturbance by a lot of the regular customers at the hotel on Thursday night causing problems for the staff. The guests were known to be engaging in prostitution. The hotel manager, Patel, kicked them all out for the night. The agent asked if his group would have any problems with Patel. Fred stated that they would not

have any problems with Patel and that he knew what was going on at the hotel with prostitution. [FBI000220,224]. The names and identities of Roosevelt Inn staff are clearly described within the records.

16. Admitted only that Plaintiff has produced a supplemental report from Plaintiff's liability expert, Richard Hudak, who reviewed and relied upon information contained within the FBI records. Further, Plaintiff intends to call FBI Special Agent Getson to testify at trial.

17. Denied. The FBI records are reliable business records. PA. R. Evid. 803(6) - Records of Regularly Conducted Activity.

18. Denied. Plaintiff is well-aware of the Pennsylvania Rules of Evidence and will not seek to introduce inadmissible evidence that may be contained in the FBI records. Certainly, Special Agent Getson can testify to his personal observations from investigations concerning the Roosevelt Inn as well as information he learned as the lead FBI Agent for the investigation targeting the owners and operators of the Roosevelt Inn.

19. Denied. See response to Paragraph 15.

20. Denied. See response to Paragraph 15 and 18.

21. Denied. See response to Paragraph 15 and 18.

22. Denied. The FBI records are admissible per PA. R. Evid. 803(6) - Records of Regularly Conducted Activity also known as business records. FBI Special Agent Getson will testify that he either prepared the records or reviewed the records as part of his day to day business overseeing investigations concerning the Roosevelt Inn. Commonwealth v. Schoff, 911 A.2d 147, 157 (Pa. Super. 2006) (finding declarant "had personal knowledge of the allegations contained in the prior report, as she had utilized that report in her own investigations and testified

extensively on DSS protocol as to preparation, storage, and management of files in a child abuse investigation.”).

23-29. Denied. There is no evidence to support the Roosevelt Defendants’ contention that the FBI records are confusing or not complete because some protected information has been redacted. The names, identities and descriptions of Roosevelt Inn employees are clearly set forth within the records. The FBI records are admissible per PA. R. Evid. 803(6) - Records of Regularly Conducted Activity also known as business records. FBI Special Agent will testify that he either prepared the records or reviewed the records as part of his day to day business overseeing investigations concerning the Roosevelt Inn. Commonwealth v. Schoff, 911 A.2d 147, 157 (Pa. Super. 2006) (finding declarant “had personal knowledge of the allegations contained in the prior report, as she had utilized that report in her own investigations and testified extensively on DSS protocol as to preparation, storage, and management of files in a child abuse investigation.”).

There is no evidence to suggest that the FBI records are untrustworthy and FBI Special Agent Getson can testify to their reliability as business records of the FBI. That there may be other FBI records concerning the Roosevelt Inn that have not been turned over by the FBI is insignificant and such information would only show that there was more criminal activity at the Roosevelt Inn, not less. Additionally, this is not a valid basis to preclude the records that were produced or the testimony of Special Agent Getson, but may be the subject of cross-examination.

The testimony that FBI Special Agent Getson and the information contained in the FBI records are evidence that there was dangerous/criminal activity at the Roosevelt Inn, specifically sex trafficking of minors and prostitution; that the Roosevelt Defendants’ denial of criminal

activity, including commercial sex activity, is not credible and that the Roosevelt Defendants and Defendant Alpha were complicit in allowing criminal activity to occur.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants' *Motion in Limine* to Preclude and Exclude FBI Materials.

Respectfully submitted,
KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE ROOSEVELT
DEFENDANTS MOTION IN LIMINE TO PRECLUDE AND EXCLUDE FBI
MATERIALS

I. PRELIMINARY STATEMENT

Defendants have no legal or factual basis to preclude FBI Special Agent Getson from testifying at trial or the information contained in the records from the FBI that were produced in this case. The testimony of FBI Special Agent Getson and information in the FBI records are relevant to show the open and obvious commercial sex activity, including prostitution and sex trafficking, that was happening at the Roosevelt Inn. A formal investigation targeting the owners and operators of the Roosevelt Inn under the White-Slave Traffic Act, also called the Mann Act, for profiting from commercial sex activity was initiated on June 17, 2014. Preceding events caused the FBI to open the investigation that are described in the records produced by the FBI. At the time the investigation was open the Philadelphia's Child Exploitation Task Force was conducting approximately 16 investigations into sex trafficking activities which had a connection

to the Roosevelt Inn that resulted in the recovery of multiple juveniles. [FBI000002].² The records also discuss multiple investigations in 2013 where children who were being sold for sex were recovered from the Roosevelt Inn. [FBI00002-3]. Further, Counsel for the Roosevelt Defendants opened the door to evidence of events that occurred after June 2014 through his own questioning of Co-Defendant Daiquan Davis in this trial. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014, to support their claim that Roosevelt staff was unaware of commercial sex activity. Therefore, Plaintiff should be permitted to introduce evidence and testimony to the contrary.

II. QUESTION PRESENTED

Should Plaintiff be precluded from offering the testimony of FBI Special Agent Brian Getson and information contained in records from the FBI concerning sex trafficking, prostitution and commercial sex activity at the Roosevelt Inn?

Suggested Answer: No this evidence is relevant because it goes to notice, credibility of the Defendants' witnesses and burden of proof.

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

In 2014, Plaintiff was the victim of sex trafficking and rape at the Roosevelt Inn when she was just 14 years old. During discovery in this case, Plaintiff subpoenaed records from the FBI concerning investigations of sex trafficking at the Roosevelt Inn. No party objected to the Subpoena.

Defendants are seeking to preclude the testimony of FBI Special Agent Brian Getson who oversaw and conducted investigations concerning sex trafficking at the Roosevelt Inn as well as the information contained in the FBI records. The FBI records described open and

¹ The FBI records are subject to a protective order. Therefore, the FBI records are not attached to this Motion in Limine but will be provided to the Court upon request

obvious commercial sex activity at the Roosevelt Inn. The testimony of Special Agent Getson and the information in the FBI records are relevant to proving notice of a dangerous condition, to rebut the Roosevelt Defendants' employees who testified that they were unaware of any criminal activity, including sex trafficking and prostitution, and to show that the Roosevelt Defendants and Defendant Alpha were complicit in allowing commercial sex activity to occur.

IV. LEGAL ARGUMENT

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (concluding that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965); Negligence--Failure to Prevent Intentional Harm to Business Invitees, Pa. SSJI (Civ), §18.120 (2020).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of other crimes previously committed in the area. For instance, the Superior Court determined that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting

victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino determined that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business’ notice of her potential harm through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also concluded that plaintiffs can introduce evidence of crimes in the area, other than the one committed against the plaintiff. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have concluded that other crimes can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive

notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (Defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business's liquor license and previous gun incidents).

“Evidence is relevant if: “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Pa.R.E. 401; see also Com. v. Spiewak, 617 A.2d 696, 699 (Pa. 1993). (“Evidence is relevant if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable, or supports a reasonable inference or assumption regarding the existence of a material fact”). “All relevant evidence is admissible, except as otherwise provided by law.” Pa.R.E. 402. A court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” Pa.R.E. 403.

The testimony that FBI Special Agent Getson and the information contained in the FBI records are evidence that there was dangerous/criminal activity at the Roosevelt Inn, specifically sex trafficking of minor and prostitution; that the Roosevelt Defendants’ denial of criminal activity, including commercial sex activity, is not credible and that the Roosevelt Defendants and Defendant Alpha were complicit in allowing criminal activity to occur.

Contrary to Defendant Alpha’s contention, the FBI records do not only contain information concerning FBI investigations after Plaintiff left the Roosevelt Inn. A formal investigation targeting the owners and operators of the Roosevelt Inn under the White-Slave

Traffic Act, also called the Mann Act, for profiting from commercial sex activity was initiated on June 17, 2014. The investigation was part of a nationwide FBI initiative to target, and shut down hotels benefitting or participating actively in the prostitution of under-aged girls. [FBI000186]. There were preceding events that caused the FBI to open the investigation that are described in the records produced by the FBI. For example, at the time the investigation was open the Philadelphia's Child Exploitation Task Force was conducting approximately 16 investigations into sex trafficking activities which had a connection to the Roosevelt Inn that resulted in the recovery of multiple juveniles. [FBI000002]. The records also discuss multiple investigations in 2013 where children who were being sold for sex were recovered from the Roosevelt Inn. [FBI00002-3].³ The FBI records indicate that "Philadelphia Police Department provided a report of all 911 calls related to the Roosevelt Inn, 7600 Roosevelt Boulevard, Philadelphia for the period of 1/1/2012-7/7/2014. Reflected in the report were 522, 911 calls leading to 36 arrests. 17 arrests for prostitution and related charges."

According to information contained in the records, FBI Agents learned that a security at the Roosevelt Inn would protect the "girls" who were selling sex at the Roosevelt Inn. The security guard would protect the "girls" if someone came to rob them and would block the door and no call the police. [FBI000207]. The security guard also stated he would not interfere with the FBI undercover agent who was "working girls" and accepted a bribe from the agent. [FBI000211-212].

The FBI records also detail conversations FBI Special Agent Getson had with a desk clerk at the Roosevelt Inn who noticed people going in and out of the rooms on the security

²The FBI records are subject to a protective order. Therefore, the FBI records are not attached to this Motion in Limine but will be provided to the Court upon request.

cameras. The agent told the desk clerk he was “working the girls “ but they would not stay overnight and the desk clerk stated this was fine. [FBI000224]. FBI Special Agent Getson asked a front desk clerk, 30 year-old Indian female, if there were girls available. The clerk responded that they were usually there late in the evening or on weekend when many prostitutes were available [FBI000284].

There records also indicate Special Agent Getson asked Fred Keller the bartender why it was so quiet in the bar. Keller stated there was a large disturbance by a lot of the regular customers at the hotel on Thursday night causing problems for the staff. The guests were known to be engaging in prostitution. The hotel manager, Patel, kicked them all out for the night. The agent asked if his group would have any problems with Patel. Fred stated that they would not have any problems with Patel and that he knew what was going on at the hotel with prostitution. [FBI000220,224].

The FBI records and testimony are relevant to rebut the Roosevelt Inn witnesses’ testimony stating they did not know of any criminal activity, including prostitution or sex trafficking, happening at the Roosevelt Inn at any time. The Roosevelt Defendants’ employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit “A”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Ex. A at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. A at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants opened the door to evidence of events that occurred after June 2014 through his own questioning of a witness in this trial. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel elicited testimony from Co-Defendant Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work:

Q: Mr. Davis, you mentioned that when I asked you where you engaged with commercial sex work and you listed several hotels. One of those hotels listed was the Roosevelt Inn. Are you able to tell me, sir, when you engaged in commercial sex work at the Roosevelt Inn?

A: Yes ... The first date is October 1, 2014. The second date is October 24, 2014. The third date is October 23, 2014. The fourth date is November 24, 2014.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 23, attached as Exhibit "B" (a draft version of the transcript was available at the time this response was filed and a final copy of the transcript will be forthcoming).

Rather than stop questioning about events after June 2014, counsel for the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their position that there was no knowledge of criminal activity at the Roosevelt Inn. The Roosevelt Defendants elicited testimony from Co-Defendant Daiquan Davis that the Roosevelt Inn staff and manager, Yagna Patel, were "rule abiding" and that the staff and hotel manager were unaware of commercial sex activity. The Roosevelt Defendants' counsel asked Mr. Davis about an interaction that he had with the motel manager Yagna Patel where Mr. Patel allegedly told Mr. Davis to go back to his room when Mr. Patel saw Davis "loitering" in the hallway:

Q: Sir, did you ever interact with someone by the name of Yagna Patel?

A: I had one interaction, yes.

Q: Can you describe for me when that one interaction occurred?

A: I'm not -- I'm not sure an accurate date, but I was loitering in the hallways and he told me to either leave the hotel or go back to my assigned room.

Q: What did you do?

A: I went back to my room.

Q: Did you tell him you were a guest?

A: Yes.

Q: Did he ask you if you were a guest?

A: I volunteered that information before he got to ask me.

See Trial Testimony of Daiquan Davis attached as Exhibit "A" page 28 – 29. Davis confirmed that this incident occurred in October or November 2014. See Ex. B at page 72.

Counsel for the Roosevelt Defendants specifically asked Daiquan Davis about his stays at the motel after June 2014:

Q: ... As part of the commercial sex work at the Roosevelt Inn in October of 2014 was the Roosevelt Inn or anyone that you're aware of at the Roosevelt Inn aware that you were engaging in prostitution?

A No.

See Ex. B at page 26. With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management

did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

Plaintiff is well-aware of the Pennsylvania Rules of Evidence and will not seek to introduce inadmissible evidence that may be contained in the FBI records. Certainly, Special Agent Getson can testify to his personal observations from investigations concerning the Roosevelt Inn as well as information he learned as the lead FBI Agent for the investigation targeting the owners and operators of the Roosevelt Inn.

There is no evidence to support the Roosevelt Defendants' contention that the FBI records are confusing or not complete because some protected information has been redacted. The names, identities and descriptions of Roosevelt Inn employees are clearly set forth within the records. The FBI records are admissible per PA. R. Evid. 803(6) - Records of Regularly Conducted Activity also known as business records. FBI Special Agent will testify that he either prepared the records or reviewed the records as part of his day to day business overseeing investigations concerning the Roosevelt Inn. Commonwealth v. Schoff, 911 A.2d 147, 157 (Pa. Super. 2006) (finding declarant "had personal knowledge of the allegations contained in the prior report, as she had utilized that report in her own investigations and testified extensively on DSS protocol as to preparation, storage, and management of files in a child abuse investigation.").

There is no evidence to suggest that the FBI records are untrustworthy and FBI Special Agent Getson can testify to their reliability as business records of the FBI. That there may be other FBI records concerning the Roosevelt Inn that have not been turned over by the FBI is insignificant and such information would only show that there was more criminal activity at the Roosevelt Inn, not less. Additionally, this is not a valid basis to preclude the records that were produced or the testimony of Special Agent Getson, but may be the subject of cross-examination.

The testimony of FBI Special Agent Getson and the information contained in the FBI records are evidence that there was dangerous/criminal activity at the Roosevelt Inn, specifically sex trafficking of minors and prostitution; that the Roosevelt Defendants' denial of criminal activity, including commercial sex activity, is not credible and that the Roosevelt Defendants and Defendant Alpha were complicit in allowing criminal activity to occur.

V. CONCLUSION

For all the aforementioned reasons, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants' *Motion in Limine* to Preclude and Exclude FBI Materials.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Answer and Memorandum of Law in Opposition to the Roosevelt Defendants' Motion in Limine to Preclude and Exclude FBI Materials***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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Kevin M. Eddy, Esquire
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*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
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President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

E. MEEGAN

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine of Defendant Alpha-Centurion Security, Inc.'s Motion in Limine as to Non-Party Alpha Century Security, Inc. and any response in opposition thereto, it is hereby:

ORDERED and **DECreed** that Defendant Alpha-Centurion Security, Inc.'s Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S ANSWER IN OPPOSITION TO MOTION IN LIMINE OF DEFENDANT
ALPHA-CENTURION SECURITY, INC. AS TO NON-PARTY ALPHA CENTURY
SECURITY, INC.**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to Defendant Alpha-Centurion Security, Inc.'s Motion in Limine as to Non-Party Alpha Century Security, Inc. as follows:

1. Denied. Plaintiff was the victim of sex trafficking and rape; it is not alleged.
2. Admitted.
3. Admitted.
4. Admitted.
5. Denied as stated. Defendant Alpha-Centurion Security, Inc. and Alpha Century Security, Inc. are intimately intertwined. Defendant Alpha-Centurion Security Inc.'s successor company is Alpha Century Security Inc.
6. Admitted only that Defendant has cited to a portion of Mr. Panetta's testimony.
7. Admitted only that Defendant has cited to a portion of Mr. Panetta's testimony.

8. Admitted only that Defendant has cited to a portion of Mr. Panetta's testimony.
9. Denied.

10.-12. Denied. Defendant Alpha-Centurion Security, Inc. and Alpha Century Security, Inc. are intimately intertwined. Defendant Alpha-Centurion Security Inc.'s successor company is Alpha Century Security Inc. as referred to throughout this case by counsel for Defendant Alpha-Centurion Security, Inc. in court filings. The succession was only a change in the name of the companies. Joanna Smalls, President of Defendant Alpha-Centurion, decided to cease operations due to health issues sometime in 2014. See N.T. Panetta at P. 14-15 attached as Exhibit "A". Mr. Panetta, Ms. Smalls' significant other and Director of Operations for Defendant Alpha-Centurion, wanted to take over operating Defendant Alpha-Centurion but he could not because the company was designated as a Women's Owned Business. See Exhibit "A" at P. 13-14. Therefore, Mr. Panetta formed Alpha Century Security, Inc. to continue the security contracts Ms. Smalls had with various businesses, including the Roosevelt Inn. See Exhibit "A" at P. 35. Mr. Panetta claims Alpha-Century started operations on January 1, 2015. Notably, despite taking over the Roosevelt Inn security contract and retaining the same employees without a gap in service to the Roosevelt Inn, Mr. Panetta claims that Ms. Smalls instructed him to "throw out" all records pertaining to the Roosevelt Inn except for tax records. As such, Alpha-Centurion has failed to produce significant, relevant records in this case, including incident reports, staff sheets and logs. The only records Defendant Alpha-Centurion produced are what Mr. Panetta claims were mistakenly retained. For example, Defendant Alpha-Centurion produced one incident report from 2013 despite evidence that there were other incident reports and in contradiction to Mr. Panetta's testimony that he was instructed to "throw out" all records pertaining to the Roosevelt Inn. Additionally, Alpha-Centurion produced some security guard clock forms

despite Mr. Panetta testifying that he was instructed to throw out all documentation pertaining to the Roosevelt Inn.

The jury should hear evidence of why Defendant Alpha-Centurion Security, Inc. allegedly failed to produce requested documents in this case which requires reference to Alpha Century.

13.-17. Denied as legal conclusions to which no response is required.

18.-25. Denied. See response to Paragraphs 10-12.

WHEREFORE, Plaintiff respectfully request this Honorable Court to deny the Motion in Limine of Defendant Alpha-Centurion Security, Inc. as to Non-Party Alpha Century.

Respectfully submitted,
KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
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1525 Locust Street
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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION IN LIMINE
OF DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO NON-PARTY
ALPHA CENTURY SECURITY, INC.**

I. PRELIMINARY STATEMENT

Defendant Alpha-Centurion Security, Inc. and Alpha Century Security, Inc. are intimately intertwined. Defendant Alpha-Centurion Security Inc.'s successor company is Alpha Century Security Inc. as referred to throughout this case by counsel for Defendant Alpha-Centurion Security, Inc. in court filings. The succession was only a change in the name of the companies. Joanna Smalls, President of Defendant Alpha-Centurion, decided to cease operations due to health issues sometime in 2014. *See* N.T. Panetta at P. 14-15 attached as Exhibit "A". Mr. Panetta, Ms. Smalls' significant other and Director of Operations for Defendant Alpha-Centurion, wanted to take over operating Defendant Alpha-Centurion but he could not because the company was designated as a Women's Owned Business. See Exhibit "A" at P. 13-14. Therefore, Mr. Panetta formed Alpha Century Security, Inc. to continue the security contracts Ms. Smalls had with various businesses, including the Roosevelt Inn. See Exhibit "A" at P. 35.

Mr. Panetta claims Alpha-Century started operations on January 1, 2015. Notably, despite taking over the Roosevelt Inn security contract and retaining the same employees without a gap in service, Mr. Panetta claims that Ms. Smalls instructed him to “throw out” all records pertaining to the Roosevelt Inn except for tax records when the company transitioned from Defendant Alpha-Centurion to Alpha Century. As such, Alpha-Centurion has failed to produce significant, relevant records in this case, including incident reports, staff sheets and logs. The only records Defendant Alpha-Centurion produced are what Mr. Panetta claims were mistakenly retained. For example, Defendant Alpha-Centurion produced one incident report from 2013 despite evidence that there were other incident reports and in contradiction to Mr. Panetta’s testimony that he was instructed to “throw out” all records pertaining to the Roosevelt Inn. Additionally, Alpha-Centurion produced some security guard clock forms despite Mr. Panetta testifying that he was instructed to throw out all documentation pertaining to the Roosevelt Inn.

The jury should hear evidence of why Defendant Alpha-Centurion Security, Inc. failed to produce requested documents in this case which requires reference to Alpha Century.

II. QUESTION PRESENTED

Should this Honorable Court preclude reference to Defendant Alpha-Centurion Security, Inc.’s successor company, Alpha Century Security, Inc.?

Suggested Answer: No.

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

In 2014, Plaintiff was the victim of sex trafficking and rape at the Roosevelt Inn when she was just 14 years old. Defendant Alpha-Centurion Security, Inc. had an agreement with the Roosevelt Inn Defendants to provide security services at the Roosevelt Inn in 2014.

Defendant Alpha-Centurion Security, Inc. is seeking to preclude reference to its successor company, Alpha Century Security, Inc. Defendant Alpha's Motion should be denied for the following reasons.

IV. LEGAL ARGUMENT

"Evidence is relevant if: "(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Pa.R.E. 401; see also Com. v. Spiewak, 617 A.2d 696, 699 (Pa. 1993). ("Evidence is relevant if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable, or supports a reasonable inference or assumption regarding the existence of a material fact"). "All relevant evidence is admissible, except as otherwise provided by law." Pa.R.E. 402.

Mr. Panetta testified that a supervisor from Alpha-Centurion would go to the Roosevelt Inn every Saturday or Sunday to collect the security guard's Daily Activity Reports, timesheets, incident report forms, and the clock round forms. Exhibit "A" at P. 23. Mr. Panetta claims that all records pertaining to the Roosevelt Inn were ordered to be thrown away but Ms. Smalls but that he was able to find some records that were retained by "mistake."

- Q. Have you searched for the employee handbook that was used by Alpha-Centurion?
- A. Again, everything that was given to me from Alpha-Centurion we went through, and the only thing we came up with was just those records right there. No other information from Alpha-Centurion involving any other clients, there's only one box came with that.
- Q. Where was that box of Alpha-Centurion documents located?
- A. That was only by accident. It was stored in the basement when they moved the stuff from the old building at 200 West Chester Pike over to the new building. After I had the secretaries check the file room, I said, you know what, check the basement, and they found one box, and there was some different stuff in it, some things from the Roosevelt Inn, a couple of papers from different clients, different DARs. That's daily activity reports.

Q. Would it be fair to say that you've been unable to locate an employee handbook that was used by Alpha-Centurion; is that correct?
A.. That's correct, yes, ma'am.

See Exhibit "A" at P. 23-24.

Q. Have you talked to Miss Small about records that were maintained by Alpha-Centurion?
A. No, ma'am.
Q. Are you still in a relationship with her?
A. Yes, ma'am.
Q. Have you ever asked her where she stored records from Alpha Centurion's clients?
A. There's no records that were stored because everything was destroyed in 2014.
Q. How do you know that?
A. I was part of throwing the stuff away.

See Exhibit "A" at P. 44.

Mr. Panetta's testimony that "everything" was thrown out contradicts the production of a select few documents by Defendant Alpha-Centurion in this case. Panetta's explanation as to why Alpha-Century retained some records pertaining to the Roosevelt Inn despite also testifying that all records were to be thrown out is confusing at best. See Exhibit "A" P. 116-120. Plaintiff should be permitted to introduce evidence as to why Defendant Alpha-Centurion Security, Inc. has failed to produce documents in this case which requires referencing Alpha-Century.

V. CONCLUSION

For all the aforementioned reasons, Plaintiff respectfully request this Honorable Court to deny the Motion in Limine of Defendant Alpha-Centurion Security, Inc. as to Non-Party Alpha Century.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: /s/Emily B. Marks

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Answer and Memorandum of Law in Opposition to Defendant Alpha's Motion Regarding Non-Party Alpha Century***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
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*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
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President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

EXHIBIT A

Redacted

Civil Administration

E. MEEGAN

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of Motion in Limine of Defendant Alpha-Centurion Security, Inc. Regarding Kelvin Hanton's Criminal Record, and any response in opposition thereto, it is hereby:

ORDERED and **DECreed** that Defendant Alpha-Centurion Security, Inc.'s Motion is **DENIED**.

BY THE COURT

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

PLAINTIFF'S RESPONSE TO MOTION IN LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. REGARDING KELVIN HANTON'S CRIMINAL RECORD

Plaintiff M.B. ("Plaintiff"), by her counsel, Kline & Specter, P.C, responds in opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. Regarding Kelvin Hanton's Criminal Record as follows:

1. Denied as stated. Plaintiff was the victim of rape and sex trafficking. By way of further response, Plaintiff's Complaint is a document that speaks for itself.
2. Denied as stated. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.
3. Admitted.
4. Admitted.
5. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied. Pennsylvania courts have held that evidence that a defendant violated the Private

Detective Act is neither irrelevant nor unfairly prejudicial. See Mahan v. Am-Gard, Inc., 841 A.2d 1052, 1057 (Pa. Super. Ct. 2003). Like in Mahan, Plaintiff contends that Alpha breached its duty to provide, *inter alia*, “reasonable, *adequate*, and sufficient security personnel.” See Pl. Fourth Amended Complaint (emphasis added). Further, Alpha failed to “select and/or retain only personnel competent to provide proper and adequate security services” See id. That Alpha failed to conduct a proper background check when hiring Hanton in 2010—after he served a term of imprisonment for a felony violation of carrying a firearm without a license, but was still on probation for that offense—is central to Plaintiff’s theory of liability.

6. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

7. Denied as stated. Plaintiff’s Complaint is a document that speaks for its, and thus, any characterizations of the factual or legal claims therein are specifically denied.

8. Denied as stated. Plaintiff’s Complaint is a document that speaks for its, and thus, any characterizations of the factual or legal claims therein are specifically denied.

9. Denied as stated. Plaintiff’s Complaint is a document that speaks for its, and thus, any characterizations of the factual or legal claims therein are specifically denied.

10. Denied as stated. Plaintiff’s deposition is a document that speaks for its, and thus, any characterizations of the statements therein are specifically denied.

11. Denied as stated. Plaintiff’s deposition is a document that speaks for its, and thus, any characterizations of the statements therein are specifically denied.

12. Denied as stated. Plaintiff’s deposition is a document that speaks for its, and thus, any characterizations of the statements therein are specifically denied.

13. Denied as stated. Plaintiff's deposition is a document that speaks for its, and thus, any characterizations of the statements therein are specifically denied.

14. Denied as stated. Plaintiff's deposition is a document that speaks for its, and thus, any characterizations of the statements therein are specifically denied.

15. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

16. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

17. Denied. See response to Paragraph 5.

18. Denied. See response to Paragraph 5.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Denied. See response to Paragraph 5.

24. Denied. See response to Paragraph 5.

25. Denied. See response to Paragraph 5.

26. Denied. See response to Paragraph 5.

27. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

28. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

29. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

30. Denied. See response to Paragraph 5.

31. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

32. Admitted.

33. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

34. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

35. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied. See response to Paragraph 5.

36. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

37. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

38. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

39. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

40. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

41. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

42. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied. Evidence of a crime, wrong, or other act *may be* admissible for “another purpose.” See Pa.R.E. 404(b)(2). Plaintiff’s other purpose is proving that Defendants failed to hire and retain properly qualified security officers under their duty to Plaintiff. See Pl. Fourth Amended Complaint.

43. Admitted.

44. Denied. See response to Paragraph 42.

45. Denied. See response to Paragraph 42.

46. Denied. See response to Paragraph 42.

47. Denied. See response to Paragraph 42.

48. Denied. See response to Paragraph 42.

49. Denied. Plaintiff's Complaint is a document that speaks for itself, and any characterizations thereof are specifically denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

50. Denied. See responses to Paragraphs 5 and 42.

51. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

52. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

53. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

54. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied.

55. Denied. By way of further explanation, these paragraphs consist of legal argument and purported conclusions of law to which no response is required, and thus, all allegations are denied. See also responses to Paragraphs 5, 42, and 51.

56. Denied. See response to Paragraph 51.

57. Denied. See responses to Paragraphs 5, 42, and 51.

WHEREFORE, Plaintiff requests that this Honorable Court enter an Order denying Motion in Limine of Defendant Alpha-Centurion Security, Inc. Regarding Kelvin Hanton's Criminal Record.

KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

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NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
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	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF HER RESPONSE TO
MOTION IN LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC.
REGARDING KELVIN HANTON'S CRIMINAL RECORD**

Plaintiff M.B. (“Plaintiff”), by her counsel, Kline & Specter, P.C., respectfully submits this Memorandum of Law in Support of her Response to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. Regarding Kelvin Hanton’s Criminal Record.

I. PRELIMINARY STATEMENT

In the security industry, specific laws govern who security companies can hire. See generally Private Detective Act of 1953, 22 PA. CONS. STAT. § 23. Under the Private Detective Act, licensed security companies, like Defendant Alpha-Centurion Security, Inc. (“Alpha”), are barred from employing individuals who have been convicted of a felony or any one of twelve enumerated offenses, including (1) illegally using, carrying, or possessing a pistol or other dangerous weapon; (2) buying or receiving stolen property; or (3) recklessly endangering another person. Kelvin Hanton (“Hanton”), who has been employed by Alpha since about 1995 or 1996 and who was stationed at the Roosevelt Inn during the time Plaintiff was raped and trafficked there, has been convicted of each of these crimes. Facing claims of negligence (Count II) and

negligent infliction of emotional distress (Count IV) by Plaintiff, Hanton’s criminal record is both relevant and admissible against Alpha. And given that evidence should not be excluded simply because it is harmful to the defendant, see Commonwealth v. Antidormi, 84 A.3d 736, 750 (Pa. Super. Ct. 2014), the Court should deny Alpha’s motion.

II. QUESTION PRESENTED

1. Should this Honorable Court permit Plaintiff to introduce Hanton’s criminal record at trial?

SUGGESTED ANSWER: *Yes. Hanton’s criminal record is relevant and admissible given Plaintiff’s claims of negligence and negligent infliction of emotional distress. Moreover, evidence is not unfairly prejudicial merely because it is harmful to a defendant.*

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

Plaintiff was the victim of sex trafficking that occurred at the Roosevelt Inn when she was just fourteen years old from about January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel’s management company, UFVS Management Company, LLC; and the motel’s manager, Yagna Patel (hereinafter collectively, “Roosevelt Defendants”). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha, as an additional defendant.

In the operative complaint—Plaintiff’s Fourth Amended Complaint—Plaintiff asserted claims against Alpha for negligence (Count II) and negligent infliction of emotional distress (Count IV). Specifically, Plaintiff contends that Alpha breached its duty to provide, *inter alia*, “reasonable, *adequate*, and sufficient security personnel.” Alpha also failed to “select and/or retain only personnel competent to provide proper and adequate security services” See Id. Plaintiff’s liability expert, Richard Hudak, opines that Defendant Alpha should not have hired Hanton as a security guard and to do so was in violation of not only Pennsylvania law but Defendant Alpha’s own policies. See Hudak Supplemental Report attached as Exhibit A.

IV. THE COURT SHOULD PERMIT PLAINTIFF TO INTRODUCE HANTON'S CRIMINAL RECORD AT TRIAL

Hanton's criminal record is not only relevant to the issues in this case, but also probative of whether Defendants breached any duties owed to Plaintiff. At the same time, there is no basis to find that his criminal record constitutes impermissible character evidence under Rule 404(b)(1). Finally, Alpha's argument that Hanton's criminal is not admissible as impeachment evidence misses the mark. The evidence is relevant to show Alpha was negligent in hiring Hanton as a security guard and that Alpha negligently undertook their obligation to provide security at the Roosevelt Inn.

A. HANTON'S CRIMINAL RECORD IS RELEVANT AND NOT UNFAIRLY PREJUDICIAL GIVEN PLAINTIFF'S CLAIMS AGAINST ALPHA

“Evidence is relevant if: “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Pa.R.E. 401; see also Com. v. Spiewak, 617 A.2d 696, 699 (Pa. 1993). (“Evidence is relevant if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable, or supports a reasonable inference or assumption regarding the existence of a material fact”). “All relevant evidence is admissible, except as otherwise provided by law.” Pa.R.E. 402. A court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” Pa.R.E. 403.

Under Pennsylvania law, to plead a claim for negligence, a plaintiff must show: “(1) the existence of a duty or obligation recognized by law; (2) a failure on the part of the Defendant to conform to that duty, or breach thereof; (3) a causal connection between the Defendant's breach and the resulting injury; and (4) actual loss or damage suffered by the complainant.” Paliometros v. Loyola, 932 A.2d 128, 134 (Pa. Super. Ct. 2007) (internal citation and quotation marks

omitted). Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn, including Plaintiff, from reasonably anticipated criminal conduct by third parties.

In a negligence action, Pennsylvania courts have held a defendant's violation of the Private Detective Act is neither irrelevant nor unfairly prejudicial. See Mahan v. Am-Gard, Inc., 841 A.2d 1052, 1057 (Pa. Super. Ct. 2003). In Mahan, a bank teller who was shot by a security guard during an armed robbery committed by the guard sued the guard's employing security company and alleged that the company negligently hired the guard without conducting required criminal background checks. Id. at 1054. Specifically, the plaintiff alleged that the company violated the Private Detective Act's fingerprinting requirement. Id. at 1056. Given that this evidence was "central to the exposition of [the plaintiff's] theory of liability," the Superior Court concluded that the evidence was relevant and not unfairly prejudicial.

Here, Alpha's decision to hire Hanton despite his criminal record neither irrelevant nor unfairly prejudicial to whether Alpha breached the duties it owed Plaintiff. Like in Mahan, Plaintiff contends that Alpha breached its duty to provide, *inter alia*, "reasonable, *adequate*, and sufficient security personnel." Further, Alpha failed to "select and/or retain only personnel competent to provide proper and adequate security services." That Alpha failed to conduct a proper background check when hiring Hanton in 2010—after he served a term of imprisonment for a felony violation of carrying a firearm without a license, but was still on probation for that offense—is vital to Plaintiff's theory of liability.

Next, Hanton's own admissions show his incompetence as a security officer at the Roosevelt Inn. He testified that despite being required to report any unusual activity or incidents, he chose not to even though he saw conduct that he believed to be prostitution occurring at the Roosevelt Inn. Instead of notifying the Roosevelt Inn staff, Alpha supervisors, or the police of

what he believed to be criminal activity, he did nothing. See Hanton's Deposition attached as Exhibit "B" at p., 64, line 11-18; p., 57, line 7-10; p., 108, line 13-15; p., 109, line 18; p., 110, line 12; p., 115, line 24; p., 116, line 8. He added, "So basically, I was there to get paid. I was there to receive a check from Alpha . . . I was just showing up to work every day." Id. at p., 64, line 11-18. He also encountered naked women in the hallways at the Roosevelt Inn, who refused his instruction to get into a room, and again "did nothing." Id. at p., 108, line 3-8. Even if a woman at the hotel had directly told him she was engaging in illegal prostitution, he would not have called police or told the Roosevelt Inn staff. Id. at p., 117, line 20-23. Nor would he have reported to anyone if he thought human sex trafficking was occurring at Roosevelt Inn. Id. at p., 144, line 1-6. These admissions, along with Hanton's criminal record and illegal hiring as a security officer, show that he was incapable of rendering reasonable, adequate, and competent security services for his employer, Alpha. Accordingly, Defendants' argument that Hanton's criminal record "[has] no bearing upon whether [Plaintiff] was trafficked at the Roosevelt Inn, or whether the named defendants herein are liable" is meritless, and the Court should deny Alpha's motion.

**B. HANTON'S CRIMINAL RECORD IS NOT INADMISSIBLE
"CHARACTER EVIDENCE" UNDER RULE 404(b)(1)**

Defendant Alpha misses the mark. Evidence of Hanton's criminal record is to show that Alpha failed to hire and retain properly qualified security officers and is not being used as inadmissible character evidence. Although evidence of Hanton's criminal record may not be used as "character evidence," evidence of a crime, wrong, or other act *may be* admissible for "another purpose." See Pa.R.E. 404(b)(2). Plaintiff's purpose for introducing evidence if Hanton's criminal record is to prove that Alpha failed to hire and retain properly qualified security officers, including Hanton who was prohibited from working as a security guard.

C. A DETERMINATION AS TO WHETHER HANTON'S CRIMINAL RECORD IS PRECLUDED UNDER RULE 609 IS PREMATURE

Again, Defendant Alpha misses the mark. Defendant Alpha contends that Hanton's criminal record is not admissible for impeachment purposes. Plaintiff's purpose for introducing evidence if Hanton's criminal record is to prove that Alpha failed to hire and retain properly qualified security officers, including Hanton who was prohibited from working as a security guard. Further, it is premature to preclude this evidence for impeachment purposes given that it is yet unknown what witnesses will testify to at trial.

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Honorable Court enter the proposed Order denying Alpha's Motion in Limine Regarding Kelvin Hanton's Criminal Record.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Motion in Limine of Defendant Alpha-Centurion Security, Inc. Regarding Kelvin Hanton's Criminal Record*** was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Justina L. Byers, Esquire
Charles S. Marion, Esquire
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President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine of Defendant Alpha-Centurion Security, Inc. to the Preclude Records Produced by the FBI and Testimony Regarding Their Contents at Trial, and any response thereto, it is hereby:

ORDERED and **DECreed** that Defendant Alpha-Centurion Security, Inc.'s Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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1525 Locust Street
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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S ANSWER IN OPPOSITION TO DEFENDANT ALPHA-CENTURION SECURITY, INC.'S MOTION IN LIMINE TO PRECLUDE

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. to the Preclude Records Produced by the FBI and Testimony Regarding Their Contents at Trial as follows:

1. Denied. Plaintiff was the victim of sex trafficking and rape; it is not alleged.
2. Admitted.
3. Admitted
4. Admitted.
5. Admitted.
6. Denied. The USAO did not deny the request but stated the same information could be requested from the attorneys who represented the criminal defendants, Davis and Lopez.
7. Admitted.
8. Admitted. The Subpoena to the FBI was served prior to the discovery deadline and no party objected to the subpoena.

9. Denied. The USAO did not reverse course. The USAO agreed to provide records from the FBI.

10. Admitted that Plaintiff production from the FBI as soon as counsel received it.

11. Denied. Defendants have no legal or factual basis to preclude FBI Special Agent Getson from testifying at trial or the information contained in the records from the FBI that were produced in this case. The testimony of FBI Special Agent Getson and information in the FBI records are relevant to show the open and obvious commercial sex activity, including prostitution and sex trafficking, that was happening at the Roosevelt Inn. A formal investigation targeting the owners and operators of the Roosevelt Inn under the White-Slave Traffic Act, also called the Mann Act, for profiting from commercial sex activity was initiated on June 17, 2014. Preceding events caused the FBI to open the investigation that are described in the records produced by the FBI. At the time the investigation was open the Philadelphia's Child Exploitation Task Force was conducting approximately 16 investigations into sex trafficking activities which had a connection to the Roosevelt Inn that resulted in the recovery of multiple juveniles.

[FBI000002].¹ The records also discuss multiple investigations in 2013 where children who were being sold for sex were recovered from the Roosevelt Inn. [FBI00002-3]. Further, Counsel for the Roosevelt Defendants opened the door to evidence of events that occurred after June 2014 through his own questioning of Co-Defendant Daiquan Davis in this trial. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014, to support their claim that Roosevelt staff was unaware of

¹ The FBI records are subject to a protective order. Therefore, the FBI records are not attached to this Motion in Limine but will be provided to the Court upon request

commercial sex activity. Therefore, Plaintiff should be permitted to introduce evidence and testimony to the contrary.

12. Denied. The records are redacted to protect the identities of other juveniles and victims as well as to protect any ongoing investigations. Not all identifying information is redacted. There are descriptions and names of hotel staff including front desk workers as well as descriptions of interactions undercover agents had with a security guard.

13. Denied. See response to Paragraph 11.

14. Admitted only that Plaintiff's traffickers are not identified by name in the FBI records. Although M.B.'s traffickers are not directly referenced in the records, there are references to hotel staff and a security guard who knowingly disregarded criminal activity at the Roosevelt Inn. The records also reference front desk clerks who knowingly disregarded people entering the Roosevelt Inn through the front lobby and failed to check identification. The records further describe an incident involving a security guard who accepted a bribe from an undercover FBI agent in exchange for providing protection from law enforcement.

15. Admitted only that Plaintiff intends to call FBI Special Agent Brian Getson to testify at trial concerning investigations he conducted and oversaw concerning the Roosevelt Inn.

16. Denied. FBI Special Agent's testimony and the information contained in the FBI records are relevant to proving Plaintiff's claims that the Defendants knew or should have known about criminal activity at the Roosevelt Inn.

17. Denied. See response to Paragraph 11. Further, Plaintiff's counsel is well-aware of the rules of evidence and are mindful of the specific rules on hearsay. Plaintiff will not seek to introduce evidence that is not admissible. The records, however, can be used by the author who prepared them, to refresh a witness' recollection or if an expert witness reviewed and relied upon

them. Although the records may contain some hearsay this does not mean that the information contained in the records or the testimony of FBI Special Agent Getson should be precluded at trial.

18. Denied. Plaintiff's counsel are well-aware of the rules of evidence and are mindful of the specific rules on hearsay. Plaintiff will not seek to introduce evidence that is not admissible. The records, however, can be used by the author who prepared them, to refresh a witness' recollection or if an expert witness reviewed and relied upon them. Although the records may contain some hearsay this does not mean that the information contained in the records or the testimony of FBI Special Agent Getson should be precluded at trial. The information contained in the FBI records is relevant to proving Plaintiff's claims that the Defendants knew or should have known about criminal activity at the Roosevelt Inn and that they failed to take reasonable precautions against foreseeable harm caused by third parties.

The records reference hotel staff and a security guard who knowingly disregarded criminal activity at the Roosevelt Inn and open and obvious signs of commercial sex activity. The records reference front desk clerks who knowingly disregarded people entering the Roosevelt Inn through the font lobby and failed to check identification. The records further describe an incident involving a security guard who accepted a bribe from an undercover FBI agent in exchange for providing protection from law enforcement.

Evidence is not inadmissible because it may be unfavorable to one party.

19. Denied. See response to Paragraph 11 and 18.
20. Denied. See response to Paragraph 14.
21. Denied. The information contained in the FBI records is relevant to proving Plaintiff's claims that the Defendants knew or should have known about criminal activity at the Roosevelt

Inn and that they failed to take reasonable precautions against foreseeable harm caused by third parties.

The records reference hotel staff and a security guard who knowingly disregarded criminal activity at the Roosevelt Inn and open and obvious signs of commercial sex activity. The records reference front desk clerks who knowingly disregarded people entering the Roosevelt Inn through the font lobby and failed to check identification. The records further describe an incident involving a security guard who accepted a bribe from an undercover FBI agent in exchange for providing protection from law enforcement.

22. Denied. This is a conclusion of law to which no response is required.
23. Denied. This is a conclusion of law to which no response is required.
24. Denied. Defendants do not get to limit the evidence to only the window of time that Plaintiff was sold for sex. If this were allowed, Defendants would be the first to argue that Plaintiff failed to meet her burden of proving Defendants knew or should have known about criminal activity at the Roosevelt Inn and that Defendants failed to take reasonable precautions against harm caused third parties. Defendants own experts use a -5 year period to assess the threat or risk of harm. Therefore, Defendants are disingenuous for arguing that M.B. is limited to presenting evidence from only the time period that she was trafficked.
25. Denied. See response to Paragraph 11.
26. Admitted only that Defendants' cite to a portion of M.B.'s deposition testimony.
27. Denied. See response to Paragraph 11.
28. Denied. See response to Paragraph 21.
29. Denied. See response to Paragraph 21.
30. Denied. See response to Paragraph 21.

31. Denied. See response to Paragraph 21. Further, it is premature to argue that some redactions of names in the records will automatically confuse the jury without the benefit of FBI Special Agent's Testimony.

32. Denied. See response to Paragraph 21.

33. Denied. See response to Paragraph 11.

34. Denied. See response to Paragraph 21.

45-74. Denied. See response to Paragraph 11.

75-77. Denied. Defendants refer to the testimony of one former Roosevelt Inn desk clerk.

There has been no other evidence to support this witness' testimony. Further, this is not a valid basis to preclude the testimony of Special Agent Brian Getson of the information contained in the FBI records.

78. Admitted only that there has been no evidence that Defendant Alpha provided armed security services at the time M.B. was at the Roosevelt Inn.

79. Denied. See response to Paragraph 75-77.

80. Denied. This is a factual determination for the jury to determine.

81. Denied. See response to Paragraph 1.

82. Denied. It is denied Defendant Alpha-Centurion Security, Inc. ceased operations at the Roosevelt Inn in 2014. Patrick Panetta, Director of Operations for Alpha-Centurion Security, Inc. testified that sometime in 2014. his girlfriend, Joanna Smalls, President of Alpha-Centurion Security, Inc. decided to close the company. As a result, Mr. Panetta formed Alpha-Century, Inc. and continued the security contract to provide security services at the Roosevelt Inn and that there was no gap in providing services at the Roosevelt Inn. Mr. Panetta retained the same security guards from Defendant Alpha to work for the successor company Alpha Century, Inc,

including Kelvin Hanton who was stationed at the Roosevelt Inn through at least November 2014 according the documentation produced in this case. The company listed on the Security Desk Logs for the Roosevelt Inn through November 2014 is Defendant Alpha-Centurion Security, Inc. *See Alpha000091-000147 attached as Exhibit "C".* Defendant Alpha concedes that the successor company Alpha-Century did not begin operations until January 1, 2015. Contrary to Defendant Alpha's position, the evidence in this case indicates that Defendant Alpha continued to provide security services through at least the end of 2014.

84. Denied as stated. See response to Paragraph 82.

85-87. Denied as stated. See response to Paragraph 18 and 82.

WHEREFORE, Plaintiff respectfully request this Honorable Court to deny Defendant Alpha-Centurion Security, Inc.'s Motion in Limine to the Preclude Records Produced by the FBI and Testimony Regarding Their Contents at Trial.

Respectfully submitted,
KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT ALPHACENTURION SECURITY, INC. TO PRECLUDE RECORDS PRODUCED BY THE FBI AND TESTIMONY REGARDING THEIR CONTENTS AT TRIAL

I. PRELIMINARY STATEMENT

Defendants have no legal or factual basis to preclude FBI Special Agent Getson from testifying at trial or the information contained in the records from the FBI that were produced in this case. The testimony of FBI Special Agent Getson and information in the FBI records are relevant to show the open and obvious commercial sex activity, including prostitution and sex trafficking, that was happening at the Roosevelt Inn. A formal investigation targeting the owners and operators of the Roosevelt Inn under the White-Slave Traffic Act, also called the Mann Act, for profiting from commercial sex activity was initiated on June 17, 2014. Preceding events caused the FBI to open the investigation that are described in the records produced by the FBI. At the time the investigation was open the Philadelphia's Child Exploitation Task Force was conducting approximately 16 investigations into sex trafficking activities which had a connection

to the Roosevelt Inn that resulted in the recovery of multiple juveniles. [FBI000002].² The records also discuss multiple investigations in 2013 where children who were being sold for sex were recovered from the Roosevelt Inn. [FBI00002-3]. Further, Counsel for the Roosevelt Defendants opened the door to evidence of events that occurred after June 2014 through his own questioning of Co-Defendant Daiquan Davis in this trial. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014, to support their claim that Roosevelt staff was unaware of commercial sex activity. Therefore, Plaintiff should be permitted to introduce evidence and testimony to the contrary.

II. QUESTION PRESENTED

Should Plaintiff be precluded from offering the testimony of FBI Special Agent Brian Getson and information contained in records from the FBI concerning sex trafficking, prostitution and commercial sex activity at the Roosevelt Inn?

Suggested Answer: No this evidence is relevant because it goes to notice, credibility of the Defendants' witnesses and burden of proof.

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

In 2014, Plaintiff was the victim of sex trafficking and rape at the Roosevelt Inn when she was just 14 years old. During discovery in this case, Plaintiff subpoenaed records from the FBI concerning investigations of sex trafficking at the Roosevelt Inn. No party objected to the Subpoena.

Defendants are seeking to preclude the testimony of FBI Special Agent Brian Getson who oversaw and conducted investigations concerning sex trafficking at the Roosevelt Inn as well as the information contained in the FBI records. The FBI records described open and

¹ The FBI records are subject to a protective order. Therefore, the FBI records are not attached to this Motion in Limine but will be provided to the Court upon request

obvious commercial sex activity at the Roosevelt Inn. The testimony of Special Agent Getson and the information in the FBI records are relevant to proving notice of a dangerous condition, to rebut the Roosevelt Defendants' employees who testified that they were unaware of any criminal activity, including sex trafficking and prostitution, and to show that the Roosevelt Defendants and Defendant Alpha were complicit in allowing commercial sex activity to occur.

IV. LEGAL ARGUMENT

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (concluding that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965); Negligence--Failure to Prevent Intentional Harm to Business Invitees, Pa. SSJI (Civ), §18.120 (2020).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of other crimes previously committed in the area. For instance, the Superior Court determined that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting

victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino determined that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business’ notice of her potential harm through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also concluded that plaintiffs can introduce evidence of crimes in the area, other than the one committed against the plaintiff. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have concluded that other crimes can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive

notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (Defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business's liquor license and previous gun incidents).

“Evidence is relevant if: “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Pa.R.E. 401; see also Com. v. Spiewak, 617 A.2d 696, 699 (Pa. 1993). (“Evidence is relevant if it logically tends to establish a material fact in the case, tends to make a fact at issue more or less probable, or supports a reasonable inference or assumption regarding the existence of a material fact”). “All relevant evidence is admissible, except as otherwise provided by law.” Pa.R.E. 402. A court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: “unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” Pa.R.E. 403.

The testimony that FBI Special Agent Getson and the information contained in the FBI records are evidence that there was dangerous/criminal activity at the Roosevelt Inn, specifically sex trafficking of minor and prostitution; that the Roosevelt Defendants’ denial of criminal activity, including commercial sex activity, is not credible and that the Roosevelt Defendants and Defendant Alpha were complicit in allowing criminal activity to occur.

Contrary to Defendant Alpha’s contention, the FBI records do not only contain information concerning FBI investigations after Plaintiff left the Roosevelt Inn. A formal investigation targeting the owners and operators of the Roosevelt Inn under the White-Slave

Traffic Act, also called the Mann Act, for profiting from commercial sex activity was initiated on June 17, 2014. The investigation was part of a nationwide FBI initiative to target, and shut down hotels benefitting or participating actively in the prostitution of under-aged girls. [FBI000186]/ There were preceding events that caused the FBI to open the investigation that are described in the records produced by the FBI. For example, at the time the investigation was open the Philadelphia's Child Exploitation Task Force was conducting approximately 16 investigations into sex trafficking activities which had a connection to the Roosevelt Inn that resulted in the recovery of multiple juveniles. [FBI000002]. The records also discuss multiple investigations in 2013 where children who were being sold for sex were recovered from the Roosevelt Inn. [FBI00002-3].³ The FBI records indicate that "Philadelphia Police Department provided a report of all 911 calls related to the Roosevelt Inn, 7600 Roosevelt Boulevard, Philadelphia for the period of 1/1/2012-7/7/2014. Reflected in the report were 522, 911 calls leading to 36 arrests. 17 arrests for prostitution and related charges."

The specific records that Alpha seeks to preclude deal directly with a security guard who was observed by undercover FBI agents. FBI Agents learned that a security at the Roosevelt Inn would protect the "girls" who were selling sex at the Roosevelt Inn. The security guard would protect the "girls" if someone came to rob them and would block the door and no call the police. [FBI000207]. The security guard also stated he would not interfere with the FBI undercover agent who was "working girls" and accepted a bribe from the agent. [FBI000211-212].

The FBI records also detail conversations FBI Special Agent Getson had with a desk clerk at the Roosevelt Inn who noticed people going in and out of the rooms on the security

²The FBI records are subject to a protective order. Therefore, the FBI records are not attached to this Motion in Limine but will be provided to the Court upon request.

cameras. The agent told the desk clerk he was “working the girls “ but they would not stay overnight and the desk clerk stated this was fine. [FBI000224]. FBI Special Agent Getson asked a front desk clerk, 30 year-old Indian female, if there were girls available. The clerk responded that they were usually there late in the evening or on weekend when many prostitutes were available [FBI000284].

There records also indicate Special Agent Getson asked Fred the bartender why it was so quiet in the bar. Keller stated there was a large disturbance by a lot of the regular customers at the hotel on Thursday night causing problems for the staff. The guests were known to be engaging in prostitution. The hotel manager, Patel, kicked them all out for the night. The agent asked if his group would have any problems with Patel. Fred stated that they would not have any problems with Patel and that he knew what was going on at the hotel with prostitution. [FBI000220,224].

The FBI records and testimony are relevant to rebut the Roosevelt Inn witnesses’ testimony stating they did not know of any criminal activity, including prostitution or sex trafficking, happening at the Roosevelt Inn at any time. The Roosevelt Defendants’ employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit “A”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Ex. A at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. A at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants opened the door to evidence of events that occurred after June 2014 through his own questioning of a witness in this trial. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel elicited testimony from Co-Defendant Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work:

Q: Mr. Davis, you mentioned that when I asked you where you engaged with commercial sex work and you listed several hotels. One of those hotels listed was the Roosevelt Inn. Are you able to tell me, sir, when you engaged in commercial sex work at the Roosevelt Inn?

A: Yes ... The first date is October 1, 2014. The second date is October 24, 2014. The third date is October 23, 2014. The fourth date is November 24, 2014.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 23, attached as Exhibit "B" (a draft version of the transcript was available at the time this response was filed and a final copy of the transcript will be forthcoming).

Rather than stop questioning about events after June 2014, counsel for the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their position that there was no knowledge of criminal activity at the Roosevelt Inn. The Roosevelt Defendants elicited testimony from Co-Defendant Daiquan Davis that the Roosevelt Inn staff and manager, Yagna Patel, were "rule abiding" and that the staff and hotel manager were unaware of commercial sex activity. The Roosevelt Defendants' counsel asked Mr. Davis about an interaction that he had with the motel manager Yagna Patel where Mr. Patel allegedly told Mr. Davis to go back to his room when Mr. Patel saw Davis "loitering" in the hallway:

Q: Sir, did you ever interact with someone by the name of Yagna Patel?

A: I had one interaction, yes.

Q: Can you describe for me when that one interaction occurred?

A: I'm not -- I'm not sure an accurate date, but I was loitering in the hallways and he told me to either leave the hotel or go back to my assigned room.

Q: What did you do?

A: I went back to my room.

Q: Did you tell him you were a guest?

A: Yes.

Q: Did he ask you if you were a guest?

A: I volunteered that information before he got to ask me.

See Trial Testimony of Daiquan Davis attached as Exhibit "A" page 28 – 29. Davis confirmed that this incident occurred in October or November 2014. See Ex. B at page 72.

Counsel for the Roosevelt Defendants specifically asked Daiquan Davis about his stays at the motel after June 2014:

Q: ... As part of the commercial sex work at the Roosevelt Inn in October of 2014 was the Roosevelt Inn or anyone that you're aware of at the Roosevelt Inn aware that you were engaging in prostitution?

A No.

See Ex. B at page 26. With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management

did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

V. CONCLUSION

For all the aforementioned reasons, Plaintiff respectfully requests that this Court deny the Motion in Limine of Defendant Alpha-Centurion Security, Inc. to the Preclude Records Produced by the FBI and Testimony Regarding Their Contents at Trial

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above *Plaintiff's Answer and Memorandum of Law in Opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. to Preclude Records Produced by the FBI and Testimony Regarding their Contents at Trial*, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

EMILY B. MARKS, ESQUIRE

Attorney for Plaintiff

EXHIBIT A

Redacted

EXHIBIT B

Redacted

EXHIBIT C

Redacted

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine of Defendant Alpha-Centurion Security, Inc. as to Extraneous Criminal Activity, Plaintiff's Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECreed** that Defendant Alpha-Centurion Security, Inc.'s Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
KYLE B. NOCHO, ESQUIRE/319270

1525 Locust Street
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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE OF
DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO EXTRANEous
CRIMINAL ACTIVITY**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. (hereinafter “Alpha”) as to Extraneous Criminal Activity, as follows:

1. Denied as stated. Plaintiff M.B. is a victim of sex trafficking, and when she was a minor, she was sold for sex at the Roosevelt Inn. To the extent that this paragraph refers to Plaintiff’s Fourth Amended Complaint, that is a written document that speaks for itself. Any characterizations of the document are denied. See Plaintiff’s Fourth Amended Complaint, attached as Exhibit “A”.
2. Admitted.
3. Denied. Defendant ignores evidence to the contrary that M.B. was sold for sex as a minor out of the Roosevelt Inn.

4. – 5. Denied. The averments in these paragraphs are legal conclusions to which no response is required. Defendant Alpha-Centurion Security, Inc. (“Alpha”) has filed this Motion in Limine attempting to exclude evidence of extensive criminal activity including violent crimes and commercial sex activity at the Roosevelt Inn. This evidence includes police testimony, police records, video footage from a shooting at motel, statements from sex traffickers who operated at the Roosevelt Inn, a statement from a neighborhood witness, and generally any evidence of any prostitution or other sex trafficking victims at the Roosevelt Inn.

Contrary to Alpha’s argument, evidence of extensive criminal activity crime occurring at the Roosevelt Inn is relevant in showing that the Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel. Evidence that is relevant and admissible cannot be precluded merely because it is unfavorable to Defendants’ position. See Commonwealth v. Dillon, 925 A.2d 131 (Pa. 2007).

Plaintiff’s claims center on Defendants’ negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶ 68 – 87.

A landowner “is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

Evidence of past incidents of sex trafficking and other criminal activity at the motel can be used to prove that dangerous criminal activity existed at the Roosevelt Inn, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable harm suffered by Plaintiff. See, e.g., Paliometros v. Loyola, 932 A.2d 128, 135 – 37 (Pa. Super. 2007) (finding that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was

reasonably foreseeable by introducing evidence of rampant underage drinking at the motel); Rabutino, 809 A.2d at 941 n.6 (concluding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”); Young v. Prism Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (finding that plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area); Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011) (reasoning that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by a plaintiff stabbed at a motel).

Evidence of crimes occurring at the Roosevelt Inn also rebuts the Roosevelt Defendants’ denial of knowledge of crimes occurring at the motel. During their depositions, the motel’s manager Yagna Patel and the employees of the motel denied any knowledge about criminal activities going on at the Roosevelt Inn. The video footage also rebuts testimony from the Roosevelt Inn Defendants suggesting that the shooting between men selling minors for sex was fake.

In addition, this evidence may be admissible in a number of different ways, including refreshing a witness’s recollection, impeaching a witness, and through expert testimony. For instance, this evidence is the type of evidence reasonably relied upon by experts in the field of security when making their opinions. See Pa. R.E. 703 (“If experts in the particular field would

reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.”). In fact, Defendants’ liability experts did rely on the video footage, police records, and witness statements, which they are now trying to exclude. The Court should thus deny Alpha’s Motion in Limine.

6. Denied as stated. A shooting occurred at the Roosevelt Inn in March 2014 between two sex traffickers selling minors for sex at the motel.

7. Denied as stated. The videos images speak for themselves. Any characterizations of the videos are denied.

8. Denied as stated. Plaintiff was a victim of sex trafficking during the time that a shooting occurred at the Roosevelt Inn between two sex traffickers selling minors for sex at the motel. By way of further response, this paragraph refers to Plaintiff’s Fourth Amended Complaint, which is a written document that speaks for itself. All characterizations of the document are denied. See Ex. A.

9. Admitted.

10. Denied as stated. This paragraph refers to Plaintiff’s Fourth Amended Complaint, which is a written document that speaks for itself. Any characterizations of the document are denied. See Ex. A.

11. Denied. The averments in this paragraph are legal conclusions to which no response is required. See the response to paragraphs 4 – 5.

12. Denied as stated. Plaintiff has obtained statements from Keith Fenwick, Rashaad McIntyre, and Michael Staub. See Combined Statements, attached as Exhibit “B”. Plaintiff has produced these statements to Defendants in discovery.

13. Admitted.

14. Denied as stated. This paragraph refers to the statements of Keith Fenwick, Rashaad McIntyre, and Michael Staub. These statements are written documents that speak for themselves. All characterizations of these documents are denied. See Ex. B.

15. Denied as stated. This paragraph refers to the transcript of the deposition of Plaintiff M.B. and a family court order regarding M.B. These are written documents that speaks for themselves. All characterizations of these documents are denied.

16. Denied as stated. Rashaad McIntyre and Jerel Jackson sold minors for sex at the Roosevelt for periods from 2011 to 2013.

17. Denied as stated. This paragraph refers to the transcript of the deposition of Keith Fenwick, which is a written document that speaks for itself. All characterizations of this document are denied.

18. Denied as stated. This paragraph refers to the statement of Rashaad McIntyre, which is a written document that speaks for itself. All characterizations of the document are denied.

See Ex. B.

19. – 21. Denied as stated. These paragraphs refer to the statement of Michael Staub, which is a written document that speaks for itself. All characterizations of the document are denied. See Ex. B.

22. Denied. Alpha mischaracterizes evidence provided by witnesses to extensive criminal activity at the Roosevelt Inn, which is relevant to Plaintiff M.B.’s claims against Defendant Alpha and the Roosevelt Defendants. See the response to paragraphs numbers 4 – 5.

23. Denied. This paragraph refers to Plaintiff’s Fourth Amended Complaint, which is a written document that speaks for itself. All characterizations of this document are denied. See Ex. A.

24. – 50. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 4 – 5.

51. – 61. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 4 – 5.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny Alpha's Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO
EXTRANEous CRIMINAL ACTIVITY**

I. PRELIMINARY STATEMENT

Defendant Alpha-Centurion Security, Inc. (“Alpha”) has filed this Motion in Limine attempting to exclude evidence of extensive criminal activity including violent crimes and commercial sex activity at the Roosevelt Inn around the time that M.B. was a victim of sex trafficking at the motel. This evidence includes police testimony, police records, video footage from a shooting at motel, statements from sex traffickers who operated at the Roosevelt Inn, a statement from a neighborhood witness, and generally any evidence of any prostitution or other sex trafficking victims at the Roosevelt Inn.

Contrary to Alpha’s argument, evidence of extensive criminal activity crime occurring at the Roosevelt Inn is relevant in showing that the Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel. Evidence of crimes other than the one that the Plaintiff suffered can be used to prove that the existence of a

dangerous criminal activity, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable future harm suffered by Plaintiff M.B.

This evidence also is relevant in challenging the credibility of witness testimony from the Roosevelt Defendants mischaracterizing the shooting as fake. In addition, this evidence rebuts the testimony from the Roosevelt Inn employees that they were unaware of any criminal activity at the Roosevelt Inn.

Plaintiff's counsel is well-aware of the Pennsylvania Rules of Evidence and the specific rules pertaining to hearsay evidence. It is premature to categorically exclude broad categories of evidence, when this evidence can be used in a number of different ways, including through refreshing a witness' recollection, impeaching a witness, or expert testimony if reviewed and relied upon by an expert. Defendants' own liability experts rely on the video footage, police records, and witness statements in their expert reports. The Court should thus deny Alpha's Motion in Limine.

II. QUESTION PRESENTED

A. Should the Court deny Alpha's Motion to preclude evidence of extensive criminal activity occurring at the Roosevelt Inn?

Suggested Answer: Yes. Evidence of crime occurring at the Roosevelt Inn is relevant in showing that the Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B. This evidence can also rebut the Roosevelt Defendants employees' denial of knowledge of crimes occurring at the motel. In addition, this evidence records may be admissible through a number of different ways, including expert testimony, as security experts reasonably rely on police records, witness statements, and crime video footage when forming their opinions. Defendants' own liability experts rely on this evidence. Thus, it would be premature for the Court to categorically exclude this evidence.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014.

Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, Defendant Alpha seeks to preclude the introduction of evidence of extensive criminal activity at the Roosevelt Inn around the time that Plaintiff M.B. was a victim of sex trafficking at the motel. Alpha has sought to preclude broad categories of evidence, including police testimony, police records, video footage from a shooting at motel, statements from sex traffickers who operated at the Roosevelt Inn, a statement from a neighborhood witness, and generally any evidence of any prostitution or other sex trafficking victims at the Roosevelt Inn. This evidence is relevant to Plaintiff's claims going to the heart of the issue of notice to the motel that it needed to take reasonable measures to protect those at the motel like M.B. from foreseeable criminal activity perpetrated by third parties. It is premature to categorically exclude this evidence when it can be admissible in a number of different ways, including through expert testimony if reviewed and relied upon by an expert. Defendants' own liability experts rely on police records, witness statements, and crime video footage in their expert reports. The Court should thus deny Alpha's Motion in Limine.

IV. LEGAL ARGUMENT

A. This evidence is relevant to show the existence of dangerous criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable steps to protect those at the motel like M.B.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965); Negligence--Failure to Prevent Intentional Harm to Business Invitees, Pa. SSJI (Civ), §18.120 (2020).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of past criminal activity in the area. For instance, the Superior Court has concluded that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three

burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...". Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes "bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present." Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business' notice of her potential harm in case involving assault through evidence of "instances of disturbances, car thefts, muggings, purse snatches, drug use" occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of crimes in the area, other than the one committed against the plaintiff. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have concluded that other crimes can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of

potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business's liquor license and previous gun incidents).

Contrary to Defendant Alpha's argument, the evidence at issue in this motion is relevant to showing the existence of extensive criminal activity, requiring the motel to investigate and take reasonable steps to protect those at the Roosevelt Inn like M.B. Through discovery, Plaintiff has obtained police records showing the existence of numerous violent crimes and commercial sex activity threatening the safety of those at the motel. This evidence includes statements from the sex trafficker Rashaad McIntyre who sold minors for sex at the Roosevelt Inn during the years leading up to when Plaintiff was a victim of sex trafficking at the motel. See Combined Statements, attached as Exhibit "B". This evidence includes statements from witnesses like a neighbor Michael Staub to the motel and a former security guard at the motel Keith Fenwick who witnessed open and obvious criminal activity at the motel. See Ex. B.

This evidence also includes a video of a shootout at the Roosevelt Inn during March 2014. The shootout occurred around the same time that Plaintiff was sold for sex as a minor. Police records of the March 31, 2014 shootout confirm that the incident involved men who were selling underage girls for sex at the Roosevelt Inn, as one underage victim was trapped in her hotel room as the shootout was taking place. The persons involved in the shootout were criminally convicted for their crimes stemming from the March 31, 2014 shootout. The footage would help the jury see what the security cameras at the Roosevelt Inn showed and how clear the video depicted violence endangering the lives of all those at the motel. Without the video, the jury is left to wonder what the cameras would show. The jury should get to see how clearly motel staff would have seen criminal activity was occurring at the Roosevelt Inn.

This evidence can be used to rebut the testimony of the Roosevelt Inn Defendants downplaying and denying that the shooting even happened. Anthony Uzzo, a trustee for one of the Trusts that owns the Roosevelt Inn who provided management for the Roosevelt Inn testified that he believed the shootout was fake:

Q: And what is your understanding of the circumstances surrounding the shootout?

A: I saw videos of the shootout where two men chasing each other down the corridors firing guns at each other. They seemed to be almost like fake guns because they were smiling and laughing as they were doing it from what I saw. And when I went there, it looked like they were pellet guns because I found no bullets.

Q: So it's your belief that that the video pertaining to the shootout was put out by your competitors?

A: Yes. It looked like a big farce.

See Deposition Transcript of Anthony Uzzo, attached as Exhibit "C" at page 106 – 109. Mr. Uzzo later went on to testify that no changes were made at the Roosevelt Inn as a result of the shootout, ignoring the dangers that this violent criminal activity posed to others at the motel. See Ex. C at page 108. This video footage from the shooting is clearly relevant in rebutting Mr. Uzzo's testimony that the shootout was fake or staged by competitor hotels.

This evidence may also be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn.

See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit "D". He denied knowing about any times staff called the police about guests' suspected drug use or prostitution

at the motel. See Ex. D at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. D at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn. This video footage shows that Roosevelt Inn Defendants denial of knowing about criminal activity at the motel, including commercial sex activity, is not credible. The Roosevelt Defendants and Alpha's failures to act show they were complicit in allowing criminal activity to occur.

Despite arguing that evidence of this criminal activity is unreliable and inadmissible, Defendants' own experts rely on this evidence when making their opinions. The Roosevelt Defendants' security expert Norman Bates details how the police records capture crimes occurring at the Roosevelt Inn from 2011 to 2014, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Expert Report of Norman Bates at pages 6 – 8, attached as Exhibit "E". Norman Bates also relies on police call for service reports, which the Roosevelt Defendants are attempting to exclude:

Based on the CFS [Call for Service] from the Philadelphia Police Department and testimony from representatives of the Roosevelt Inn, there was a problem with prostitution activity in 2013 at the both the Roosevelt Inn and apparently in the northeast section of Philadelphia. In 2013, there were thirteen reports of prostitution, including two that involved minors. In the first six months of 2014, there were two reports of prostitution and those occurred in January and February of prior to plaintiff's alleged presence at the hotel.

See Ex. E at page 7. Norman Bates also discusses a news article about sex traffickers involved in the shooting at the motel in March 2014 and the footage obtained:

3/31/14 Gun fire exchanged between two men over a dispute about underage prostitution and mistaken identity at Roosevelt Inn. Vincent Jackson later convicted. [News Article: “*Man Convicted Of Prostituting Underage Girls*,” *Northeast Times; Roosevelt Inn Surveillance Footage Posted on YouTube by Philadelphia Police*]

See Ex. E at page 4. Defense liability experts Kimberly Mehlman-Orozco and James Francis also base their opinions on a review of police records. See Expert Report of Kimberly Mehlman-Orozco, attached as Exhibit “F” at page 23 and Supplemental Expert Report of James Francis at page 11, attached as Exhibit “G”. Norman Bates also relies on witness statements, including the sex traffickers Daiquan Davis, Abdul Lopez, Rashaad McIntyre, and Jerel Jackson. See Ex. E. Kimberly Mehlman-Orozco also relies on a declaration from the sex trafficker Daiquan Davis and discusses in her report the stories of other victims of sex trafficking and interviews of sex traffickers, other than Daiquan Davis and Abdul Lopez. See Ex. F at page 19. If the Defendants can use their experts to discuss other traffickers and other victims of sex trafficking with no history of operating at the motel, Plaintiff certainly should be able to discuss other traffickers who sold minors for sex at the Roosevelt Inn and other minors who were victims of sex trafficking at the motel.

Police records, witness statements, and video footage are the types of evidence that experts can reasonably rely upon in the field of security. See Pa. R.E. 703 (“If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.”). Along with his expert report, the Roosevelt Defendants’ security expert Norman Bates provided a copy of his forensic methodology relied upon when issuing his opinions. See Bates’ Methodology, attached as Exhibit “H”. This methodology was issued as “Best Practices” by the International Association of Professional Security Consultants. The methodology lists witness statements, police records,

and video as the typical evidence reviewed by experts in premises security cases. See Ex. H at pages 3 – 4.

Although some of this evidence may not be able to be read to the jury on its own, the evidence can be admissible under various circumstances. The evidence can be admissible through expert testimony as discussed above. This evidence may also be used by the witness to refresh their recollection. See Pa. R.E. 612 (“(a) Right to Refresh Memory. A witness may use a writing or other item to refresh memory for the purpose of testifying while testifying, or before testifying.”). The evidence can also be used to impeach the person who made a false statement in that person’s testimony. Pa. R.E. 613 (“(a) Witness’s Prior Inconsistent Statement to Impeach. A witness may be examined concerning a prior inconsistent statement made by the witness to impeach the witness’s credibility.”). It is premature to categorically exclude this evidence.

The evidence of extensive criminal activity at the Roosevelt Inn is relevant to Plaintiff’s claims against the Roosevelt Defendants and Defendant Alpha. Therefore, it’s premature to categorically exclude this evidence.

V. CONCLUSION

The Court should deny Alpha’s Motion. An appropriate form of order is respectfully attached hereto for the Court’s consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE

EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE

Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. as to Extraneous Criminal Activity***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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By first-class mail upon the following parties:

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KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration
F. HEWITT

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ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine to Preclude and Exclude References to Crimes, Criminal Activity, and Arrests Unrelated to Purported Sex Trafficking filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), Plaintiff’s Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECRED** that the Roosevelt Defendants’ Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
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v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO
PRECLUDE AND EXCLUDE REFERENCES TO CRIMES, CRIMINAL ACTIVITY,
AND ARRESTS UNRELATED TO PURPORTED SEX TRAFFICKING FILED BY
DEFENDANTS ROOSEVELT INN LLC, ROOSEVELT MOTOR INN, INC., UFVS
MANAGEMENT COMPANY, LLC, AND YAGNA PATEL**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine to Preclude and Exclude References to Crimes, Criminal Activity, and Arrests Unrelated to Purported Sex Trafficking filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), as follows:

1. Denied as stated. This paragraph refers to Plaintiff’s Complaint and Plaintiff’s Amended Complaints, which are written documents that speak for themselves. Any characterizations of these documents are denied. See Plaintiff’s Fourth Amended Complaint, attached as Exhibit “A”.
2. Denied as stated. Abdul Lopez and Daiquan Davis sex trafficked Plaintiff M.B. at the Roosevelt when she was a minor. Both of these sex traffickers were convicted of the crime sex

trafficking of a minor under 18 U.S.C. §§ 1591 and 1594(a). The Roosevelt Defendants filed a Joinder Complaint joining Abdul Lopez and Daiquan Davis as Additional Defendants. All other averments are denied.

3. Denied. The averments in this paragraph are legal conclusions to which no response is required.

4. Denied as stated. This paragraph refers to Plaintiff's Fourth Amended Complaint, which is a written document that speaks for itself. Any characterizations of the document are denied. See Ex. A.

5. Denied. The averments in this paragraph are legal conclusions to which no response is required.

6. Denied. The Roosevelt Defendants attempt to mischaracterize evidence and manufacture a rationale why relevant evidence should be excluded. During discovery, Plaintiff subpoenaed from the District Attorney's Office and obtained from the Roosevelt Defendants video of shootout at the Roosevelt Inn during March 2014. The shootout occurred around the same time that Plaintiff was sold for sex as a minor and is evidence of criminal activity at the hotel. Police records of the March 31, 2014 shootout confirm that the incident involved men who were selling underage girls for sex at the Roosevelt Inn, as one underage victim was trapped in her hotel room as the shootout was taking place. The persons involved in the shootout were criminally convicted for their crimes stemming from the March 31, 2014 shootout.

Anthony Uzzo, a trustee for one of the Trusts that owns the Roosevelt Inn who provided management for the Roosevelt Inn testified that he believed the shootout was fake. Video footage evidence is relevant in rebutting Mr. Uzzo's testimony. The footage would help the jury see what the security cameras at the Roosevelt Inn showed and how clear the video depicted

violence endangering the lives of all those at the motel. Without the video, the jury is left to wonder what the cameras would show. The jury should get to see how clearly motel staff would have seen criminal activity was occurring at the Roosevelt Inn.

The video footage from the shooting is also relevant to show that there was dangerous criminal activity at the Roosevelt Inn. Defendants knew or should have known there was a likelihood of criminal activity occurring at the motel and failed to take reasonable steps to investigate and protect those at the motel like Plaintiff M.B. against it. See Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business' notice of her potential harm in case involving assault through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area). This video footage shows that Roosevelt Inn Defendants denial of knowing about criminal activity at the motel, including commercial sex activity, is not credible. The Roosevelt Defendants and Alpha's failures to act show they were complicit in allowing criminal activity to occur.

7. Denied. This paragraph refers to Defendant Alpha-Centurion Security, Inc.'s Answer to Plaintiff's Fourth Amended Complaint with New Matter and Amended New Matter Cross-Claims. This is a written document that speaks for itself, and all characterizations of the document are denied.

8. – 22. Denied. The averments in these paragraphs are legal conclusions to which no response is required. The Roosevelt Defendants have filed this Motion in Limine attempting to exclude evidence of any criminal activity at the Roosevelt Inn except sex trafficking, while deeming all other crime unrelated. Contrary to their assertion, evidence of crime occurring at the Roosevelt Inn, not just sex trafficking, is relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B.

Evidence that is relevant and admissible cannot be precluded merely because it is unfavorable to Defendants' position. See Commonwealth v. Dillon, 925 A.2d 131 (Pa. 2007).

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

A landowner "is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

Evidence of crimes other than the one that the Plaintiff suffered can be used to prove that dangerous criminal activity existed at the Roosevelt Inn, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable harm suffered by Plaintiff. See, e.g., Paliometros v. Loyola, 932 A.2d 128, 135 – 37 (Pa. Super. 2007) (plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel); Rabutino, 809 A.2d at 941 n.6 (finding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the "alleged laissez faire reputation" of the motel "coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments..."); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area); Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept.

15, 2011) (reasoning that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by a plaintiff stabbed at a motel).

Evidence of crimes occurring at the Roosevelt Inn also rebuts the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel. During their depositions, the motel's manager Yagna Patel and the employees of the motel denied any knowledge about criminal activities going on at the Roosevelt Inn.

In addition, the video footage and the police records are admissible. This evidence is the type of evidence reasonably relied upon by experts in the field of security when making their opinions. See Pa. R.E. 703 ("If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted."). In fact, Defendants' liability experts did rely on the video footage, police reports, and police call for services reports, which they are now trying to exclude. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants' Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE TO PRECLUDE AND EXCLUDE REFERENCES TO CRIMES, CRIMINAL
ACTIVITY, AND ARRESTS UNRELATED TO PURPORTED SEX TRAFFICKING
FILED BY DEFENDANTS ROOSEVELT INN LLC, ROOSEVELT MOTOR INN, INC.,
UFVS MANAGEMENT COMPANY, LLC, AND YAGNA PATEL**

I. PRELIMINARY STATEMENT

The Roosevelt Defendants have filed this Motion in Limine attempting to exclude evidence of any criminal conduct at the Roosevelt Inn except sex trafficking, while deeming all other crime unrelated. This includes video footage from the Philadelphia District Attorney's Office showing a shooting between men selling underage girls for sex at the Roosevelt Inn during the time that Plaintiff M.B. was a victim of sex trafficking. This evidence includes records from the Philadelphia Police Department of extensive criminal activity at the Roosevelt Inn, including violent crimes and commercial sex activity. Contrary to the Roosevelt Defendants' argument, evidence of crime occurring at the Roosevelt Inn is relevant in showing that the Roosevelt Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel. Evidence of crimes other than the one that

the Plaintiff suffered can be used to prove that the existence of a dangerous criminal activity, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable future harm suffered by Plaintiff M.B.

This evidence also is relevant in challenging the credibility of witness testimony from the Roosevelt Defendants mischaracterizing the shooting as fake. In addition, this evidence rebuts the testimony from the Roosevelt Inn employees that they were unaware of any criminal activity at the Roosevelt Inn.

The police records and video footage are admissible also through expert testimony, because they are the types of evidence reasonably relied upon by experts in the field of security. Naturally, Defendants' liability experts have relied on this evidence when making their opinions in their expert reports. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

II. QUESTION PRESENTED

A. Should the Court deny the Roosevelt Defendants' Motion to preclude evidence of criminal activity occurring at the Roosevelt Inn other than sex trafficking?

Suggested Answer: Yes. Evidence of crime occurring at the Roosevelt Inn is relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action,

Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, the Roosevelt Defendants seek to preclude the introduction of evidence of criminal activity at the Roosevelt Inn, other than sex trafficking. Defendants seek the preclusion of video footage from the Philadelphia District Attorney's Office from March 2014 relating to a shootout between sex traffickers at the Roosevelt Inn. They also seek to preclude records from Philadelphia Police Department documents various crimes occurring at the Roosevelt Inn, including records of "drug related crimes, prostitution, thefts, violence, weapon related crimes, shootings, domestic disturbances, police calls, police response and arrests." This evidence is relevant to Plaintiff's claims, going to the heart of the issue of notice to the motel that it needed to investigate and take reasonable measures to protect those at the motel like M.B. from foreseeable criminal activity perpetrated by third parties. In addition, the video footage and police records are admissible through expert testimony, because they are the types of evidence reasonably relied upon by experts in the field of security. Defendants' own liability experts rely on police records and the video footage in their expert reports. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

IV. LEGAL ARGUMENT

A. Evidence of criminal conduct at the Roosevelt Inn, other than sex trafficking, is relevant to show the existence of dangerous criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable steps to protect those at the motel like M.B.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. “The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee’s protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses’ liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965); Negligence--Failure to Prevent Intentional Harm to Business Invitees, Pa. SSJI (Civ), §18.120 (2020).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that

there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of past criminal activity in the area. For instance, the Superior Court has found that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business’ notice of her potential harm in case involving assault

through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of crimes in the area, other than the one committed against the plaintiff. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have found that other crimes can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business’s liquor license and previous gun incidents).

The Roosevelt Defendants attempt to mischaracterize evidence and manufacture a rationale why relevant evidence should be excluded. During discovery, Plaintiff subpoenaed from the District Attorney’s Office and obtained from the Roosevelt Defendants video of

shootout at the Roosevelt Inn during March 2014. The shootout occurred around the same time that Plaintiff was sold for sex as a minor and is evidence of criminal activity at the hotel. Police records of the March 31, 2014 shootout confirm that the incident involved persons who were selling underage girls for sex at the Roosevelt Inn, as one underage victim was trapped in her hotel room as the shootout was taking place. The persons involved in the shootout were criminally convicted for their crimes stemming from the March 31, 2014 shootout. The footage would help the jury see what the security cameras at the Roosevelt Inn showed and how clear the video depicted violence endangering the lives of all those at the motel. Without the video, the jury is left to wonder what the cameras would show. The jury should get to see how clearly motel staff would have seen criminal activity was occurring at the Roosevelt Inn.

Additionally, Anthony Uzzo, a trustee for one of the Trusts that owns the Roosevelt Inn who provided management for the Roosevelt Inn testified that he believed the shootout was fake:

Q: And what is your understanding of the circumstances surrounding the shootout?

A: I saw videos of the shootout where two men chasing each other down the corridors firing guns at each other. They seemed to be almost like fake guns because they were smiling and laughing as they were doing it from what I saw. And when I went there, it looked like they were pellet guns because I found no bullets.

Q: So it's your belief that that the video pertaining to the shootout was put out by your competitors?

A: Yes. It looked like a big farce.

See Deposition Transcript of Anthony Uzzo, attached as Exhibit "B" at page 106 – 109. Mr. Uzzo later went on to testify that no changes were made at the Roosevelt Inn as a result of the shootout, ignoring the dangers that this violent criminal activity posed to others at the motel. See

Ex. B at page 108. This video footage from the shooting is clearly relevant in rebutting Mr. Uzzo's testimony that the shootout was fake or staged by competitor hotels.

This evidence may also be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit "C". He denied knowing about any times staff called the police about guests' suspected drug use or prostitution at the motel. See Ex. C at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. C at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn. This video footage shows that Roosevelt Inn Defendants denial of knowing about criminal activity at the motel, including commercial sex activity, is not credible. The Roosevelt Defendants and Alpha's failures to act show they were complicit in allowing criminal activity to occur.

Despite arguing that evidence of other crimes is unreliable and inadmissible, Defendants' own experts rely on this evidence when making their opinions. The Roosevelt Defendants' security expert Norman Bates details how the police records capture crimes occurring at the Roosevelt Inn, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Expert Report of Norman Bates at pages 6 – 8, attached as Exhibit "D". Norman Bates also

relies on police call for service reports, which the Roosevelt Defendants are attempting to exclude:

Based on the CFS [Call for Service] from the Philadelphia Police Department and testimony from representatives of the Roosevelt Inn, there was a problem with prostitution activity in 2013 at the both the Roosevelt Inn and apparently in the northeast section of Philadelphia. In 2013, there were thirteen reports of prostitution, including two that involved minors. In the first six months of 2014, there were two reports of prostitution and those occurred in January and February of prior to plaintiff's alleged presence at the hotel.

See Ex. D at page 7. Norman Bates also discusses a news article about sex traffickers involved in the shooting at the motel in March 2014 and the footage obtained:

3/31/14 Gun fire exchanged between two men over a dispute about underage prostitution and mistaken identity at Roosevelt Inn. Vincent Jackson later convicted. *[News Article: "Man Convicted Of Prostituting Underage Girls," Northeast Times; Roosevelt Inn Surveillance Footage Posted on YouTube by Philadelphia Police]*

See Ex. D at page 4. Defense liability experts Kimberly Mehlman-Orozco and James Francis also base their opinions on a review of police records. See Expert Report of Kimberly Mehlman-Orozco, attached as Exhibit "E" at page 23 and Supplemental Expert Report of James Francis at page 11, attached as Exhibit "F".

Police records can reasonably be relied upon by experts in the field. See Pa. R.E. 703 ("If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted."). Along with his expert report, the Roosevelt Defendants' security expert Norman Bates provided a copy of his forensic methodology relied upon when issuing his opinions. See Bates' Methodology, attached as Exhibit "G". This methodology was issued as "Best Practices" by the International Association of Professional Security Consultants. The methodology lists in the records typically reviewed by experts in premises liability cases: "Police Report of the subject

incident" and "Site and Immediate Vicinity Crime History, including police and security incident reports". See Ex. G. Police records are naturally relied upon in security cases like this one, evidenced by the liability experts' reliance on them.

The evidence of crimes occurring at the Roosevelt Inn is relevant to Plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. Therefore, it's premature to categorically exclude this evidence.

V. CONCLUSION

The Court should deny the Roosevelt Defendants' Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY:

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine to Preclude and Exclude References to Crimes, Criminal Activity, and Arrests Unrelated to Purported Sex Trafficking filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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By first-class mail upon the following parties:

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/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine to Preclude and Exclude References to Incidents Before and After the Relevant Time Period filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), Plaintiff’s Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECRED** that the Roosevelt Defendants’ Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO
PRECLUDE AND EXCLUDE REFERENCES TO INCIDENTS BEFORE AND AFTER
THE RELEVANT TIME PERIOD FILED BY DEFENDANTS ROOSEVELT INN LLC,
ROOSEVELT MOTOR INN, INC., UFVS MANAGEMENT COMPANY, LLC, AND
YAGNA PATEL**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine to Preclude and Exclude References to Incidents Before and After the Relevant Time Period filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), as follows:

1. Denied as stated. This paragraph refers to Plaintiff’s Complaint and Plaintiff’s Amended Complaints. These are written documents that speak for themselves. Any characterizations of these documents are denied. See Plaintiff’s Fourth Amended Complaint, attached as Exhibit “A”. This paragraph also references Plaintiff’s testimony from her deposition captured in a transcript, which is a written document that speaks for itself. Any characterizations of the deposition transcript are denied.

2. Denied as stated. Abdul Lopez and Daiquan Davis sex trafficked Plaintiff M.B. at the Roosevelt when she was a minor. Both of these sex traffickers were convicted of the crime sex trafficking of a minor under 18 U.S.C. §§ 1591 and 1594(a). The Roosevelt Defendants filed a Joinder Complaint joining Abdul Lopez and Daiquan Davis as Additional Defendants. All other averments are denied.

3. – 17. Denied. The averments in these paragraphs are legal conclusions to which no response is required. By way of further response, the Roosevelt Defendants mischaracterize evidence and testimony in attempt to exclude relevant, admissible evidence, which would be harmful to their case. Evidence that is relevant and admissible cannot be precluded merely because it is unfavorable to Defendants' position. See Commonwealth v. Dillon, 925 A.2d 131 (Pa. 2007). The Roosevelt Defendants are asking to exclude broad categories of evidence obtained in discovery, including evidence of extensive criminal activity, including sex trafficking and commercial sex activity, pertaining to the Roosevelt Inn prior to January 2014 and after June 6, 2014. Evidence outside of this window of time is relevant to show the Roosevelt Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

A landowner "is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

The broad category of evidence that Defendants are attempting to exclude shows extensive criminal activity at the Roosevelt Inn posing a threat to the safety of those at the motel like M.B. Roosevelt Defendants have a duty to investigate and take reasonable precautions against potential criminal acts of third parties. Evidence of crimes outside of the time interval defined by the Roosevelt Defendants can be used to prove that the Plaintiff's harm was foreseeable and rebut the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel. See, e.g., Rabutino, 809 A.2d at 941 n.6 (finding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on "an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments..."); See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011) (reasoning that the plaintiff could establish notice through calls made to the police regarding crime at the motel for a period of six years prior to the time that he was stabbed at a motel); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made for crime in the area for three year period prior to the incident at issue); Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 435 – 37 (Pa.1968) (business was put on notice of potential harm experienced by plaintiff through evidence of incidents occurring in two year period prior to plaintiff's harm).

This evidence also rebuts the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel. During their depositions, the motel's manager Yagna Patel and the employees of the motel denied any knowledge about criminal activities going on at the Roosevelt Inn.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014.¹ Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their defense.

With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

The Court should thus deny the Roosevelt Defendants' Motion in Limine.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants' Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff's counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

KLINE & SPECTER, P.C.

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE TO PRECLUDE AND EXCLUDE REFERENCES TO INCIDENTS BEFORE
AND AFTER THE RELEVANT TIME PERIOD FILED BY DEFENDANTS
ROOSEVELT INN LLC, ROOSEVELT MOTOR INN, INC., UFVS MANAGEMENT
COMPANY, LLC, AND YAGNA PATEL**

I. PRELIMINARY STATEMENT

The Roosevelt Defendants have filed this Motion in Limine attempting to exclude relevant, admissible evidence of any criminal incidents at the Roosevelt Inn outside of the specific time that Plaintiff M.B. was a victim of sex trafficking: January 1, 2014 to June 6, 2014. Evidence outside of this narrow window defined by Defendants is relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B. and contradicts testimony from Roosevelt Inn staff that they were unaware of any criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The

Roosevelt Defendants' counsel specifically elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014. They elicited this testimony in support of their position that staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

Defendants' own experts also rely on evidence from outside this window of time in their expert reports. Plaintiff should certainly be able to use evidence from this time, if Defendants are going to use evidence from it in their defense. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

II. QUESTION PRESENTED

A. Should the Court deny the Roosevelt Defendants' Motion to preclude evidence of criminal activity occurring at the Roosevelt Inn outside of the time interval January 1, 2014 to June 6, 2014?

Suggested Answer: Yes. Evidence of crime occurring at the Roosevelt Inn outside that time interval is certainly relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B. These incidents also rebut the Roosevelt Defendants employees' denial of knowledge of crimes occurring at the motel. In addition, Plaintiff should certainly be able to use evidence outside this time interval when the Roosevelt Defendants have introduced evidence of events outside this time window.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and

Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, the Roosevelt Defendants seek to preclude the introduction of relevant evidence of criminal activity at the Roosevelt Inn, outside of the time interval of January 1, 2014 to June 6, 2014. Defendants seek the preclusion of numerous records, including but not limited to police records and even defense witness testimony. This evidence is relevant to the showing the existence of extensive criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable steps to protect those at the motel like M.B. This evidence also rebuts the testimony of motel employees who denied any knowledge of criminal activity occurring at the Roosevelt Inn. Defendants' own liability experts rely on evidence outside of this window of time in their expert reports. In addition, the Roosevelt Defendants have introduced evidence of events that occurred after June 2014 through their questioning of Defendant Daiquan Davis during his trial testimony. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

IV. LEGAL ARGUMENT

A. Evidence of criminal conduct at the Roosevelt Inn outside of January 1, 2014 to June 6, 2014 is certainly relevant to the issue of notice and admissible to rebut Defendants' denials of knowing about criminal activity at the motel.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Camps v.

Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses "know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual." Id. The Comment further states: "If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty

to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of criminal activity in the area a year or more before the incident at issue. For instance, the Superior Court found that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”.

Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino concluded that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id. See also Young v. Prism Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made for crime in the area for three year period prior to the incident at issue); Moran, 431 Pa. at 435 – 37 (business was put on notice of potential harm experienced by plaintiff through evidence of incidents occurring in two year period prior to plaintiff’s harm).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of crimes in the area that occurred years before the criminal incident at issue. In a case involving a stabbing victim plaintiff at a motel, the plaintiff could establish notice through calls made to the police regarding crime at the motel for a period of six years prior to the time that he was stabbed at the motel. See Bonilla v. Motel 6 Operating

L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011); see also Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (incidents of non-violent car thefts occurring in a one year period prior to assault of plaintiff put the defendant on constructive notice); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents going back two years before the shooting of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business’s liquor license and previous gun incidents).

The cases cited in support of Defendants’ position are inapposite. See Phyllis Katz v. Strawbridge & Clothier & its subsidiary S&C Echelon, Inc., No. NO. 3332., 1993 WL 1156061 (Pa. Com. Pl. June 18, 1993); Mazzeo v. Spectaguard Acquisition, LLC, No. 02981, 2008 WL 6400699 (Pa.Com.Pl. June 10, 2008). Neither of these cases involve claims of a business’s negligence in protecting people from foreseeable criminal activity by third parties. The first involves a slip and fall at a department store, and the second involves an alleged assault committed by the defendant’s employee against the plaintiff, while the employee was working as a security guard at a college dorm. These cases do not involve the same legal standard needed for Plaintiff M.B. to prove her case.

Contrary to the Roosevelt Defendants’ argument, evidence of crimes at the motel occurring outside the time interval of January 1, 2014 to June 6, 2014 are relevant to the issue of notice and contradict the position taken by the Roosevelt Defendants that they were unaware of any criminal activity at the motel. These crimes help to show the existence of extensive criminal activity at the Roosevelt Inn, requiring the motel to investigate and take precautions against the reasonably foreseeable harm experienced by Plaintiff M.B. See Murphy v. Penn Fruit Co., 274

Pa. Super. 427, 432–33, 418 A.2d 480, 483 – 84 (1980) (“[A]n examination of past criminal acts in the immediate vicinity of [the defendant’s business] leads us to conclude the jury could infer that the occurrence of the instant crime was reasonably foreseeable.”); Young, 100 A.3d at 601–02 (“... section 344 does not require for the establishment of liability that closely similar incidents of criminality have occurred at or very near the location at which the later crime occurred.”); Rabutino, 809 A.2d at 942 (plaintiff shot at motel could prove notice requirement by showing that defendant motel “perpetuated an atmosphere where it was foreseeable that a harmful confrontation involving one or more of the unruly groups in the crowded hallways could have arisen.”).

This evidence may also be used to rebut the Roosevelt Inn witnesses’ testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The motel employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit “B”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Ex. B at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. B at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants’ own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The

Roosevelt Defendants' counsel elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work:¹

Q: Mr. Davis, you mentioned that when I asked you where you engaged with commercial sex work and you listed several hotels. One of those hotels listed was the Roosevelt Inn. Are you able to tell me, sir, when you engaged in commercial sex work at the Roosevelt Inn?

A: Yes ... The first date is October 1, 2014. The second date is October 24, 2014. The third date is October 23, 2014. The fourth date is November 24, 2014.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 23, attached as Exhibit "C".

Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their position that there was no knowledge of criminal activity at the Roosevelt Inn. The Roosevelt Defendants elicited testimony from Co-Defendant Daiquan Davis that that Roosevelt Inn staff and manager, Yagna Patel, were "rule abiding" and that the staff and hotel manager were unaware of commercial sex activity. The Roosevelt Defendants' counsel asked Mr. Davis about an interaction that he had with the motel manager Yagna Patel where Mr. Patel allegedly told Mr. Davis to go back to his room when Mr. Patel saw Davis "loitering" in the hallway:

Q: Sir, did you ever interact with someone by the name of Yagna Patel?

A: I had one interaction, yes.

Q: Can you describe for me when that one interaction occurred?

A: I'm not -- I'm not sure an accurate date, but I was loitering in the hallways and he told me to either leave the hotel or go back to my assigned room.

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff's counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

Q: What did you do?

A: I went back to my room.

Q: Did you tell him you were a guest?

A: Yes.

Q: Did he ask you if you were a guest?

A: I volunteered that information before he got to ask me.

See Ex. C at page 28 – 29. Davis confirmed that this incident occurred in October or November 2014. See Ex. C at page 72.

During the trial testimony of Co-Defendant Davis, counsel for the Roosevelt Defendants specifically asked Daiquan Davis about his stays at the motel after June 2014:

Q: ... As part of the commercial sex work at the Roosevelt Inn in October of 2014 was the Roosevelt Inn or anyone that you're aware of at the Roosevelt Inn aware that you were engaging in prostitution?

A No.

See Ex. C at page 26.

With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

The Roosevelt Defendants' security expert Norman Bates also relies on evidence outside of the "relevant time period" defined by the Roosevelt Defendant. Norman Bates analyzes in his expert report police records capturing crimes occurring at the Roosevelt Inn from 2011 to 2015,

including a shooting and other crimes, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Supplemental Expert Report of Norman Bates, attached as Exhibit “D”.

The Roosevelt Defendants’ argument for limiting the time interval of admissible evidence is further undermined by the methodology of their expert Norman Bates. Along with his expert report, Norman Bates provided a copy of his forensic methodology. See Norman Bates’ Methodology, attached as Exhibit “E”. This methodology was issued as “Best Practices” by the International Association of Professional Security Consultants. This methodology states that as part of conducting a threat assessment in a premises liability case, the expert should review “Relevant crimes on the subject property for a **three to five year period prior to the date of the incident**” and “Relevant crimes in the immediate vicinity of the subject property for a **three to five year period prior to the date of the incident**”. See Ex. E at page 4 (emphasis added).

The evidence of crimes outside of the time window defined by the Roosevelt Inn is certainly relevant to Plaintiff’s claims against the Roosevelt Defendants and Defendant Alpha. The Court should thus deny Defendants’ Motion.

V. CONCLUSION

The Court should deny the Roosevelt Defendants' Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine to Preclude and Exclude References to Incidents Before and After the Relevant Time Period filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome LLP
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*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
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President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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Abdul Lopez, Register No. 69643-066
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KLINÉ & SPECTER, P.C.

/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine to Preclude Any Reference to Alleged Traffickers Other Than Additional Defendants Davis and Lopez filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), Plaintiff’s Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECreed** that the Roosevelt Defendants’ Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO
PRECLUDE ANY REFERENCE TO ALLEGED TRAFFICKERS OTHER THAN
ADDITIONAL DEFENDANTS DAVIS AND LOPEZ FILED BY DEFENDANTS
ROOSEVELT INN LLC, ROOSEVELT MOTOR INN, INC., UFVS MANAGEMENT
COMPANY, LLC, AND YAGNA PATEL**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine to Preclude Any Reference to Alleged Traffickers Other Than Additional Defendants Davis and Lopez filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), as follows:

1. Denied as stated. This paragraph refers to Plaintiff’s Complaint and Plaintiff’s Amended Complaints. These are written documents that speak for themselves. Any characterizations of the documents are denied. See Plaintiff’s Fourth Amended Complaint, attached as Exhibit “A”.
2. Denied as stated. Abdul Lopez and Daiquan Davis sex trafficked Plaintiff M.B. at the Roosevelt when she was a minor. Both of these sex traffickers were convicted of the crime sex

trafficking of a minor under 18 U.S.C. §§ 1591 and 1594(a). The Roosevelt Defendants filed a Joinder Complaint joining Abdul Lopez and Daiquan Davis as Additional Defendants. All other averments are denied.

3. Admitted.

4. Denied as stated. Plaintiff obtained signed statements from the sex traffickers Rashaad McIntyre and Jerel Jackson who have been convicted of sex trafficking of a minor after selling minors for sex at the Roosevelt Inn. These men were convicted for sex trafficking during periods from 2011 to 2013. See Judgment of Jerel Jackson, attached as Exhibit "B", and Judgment of Rashaad McIntyre, attached as Exhibit "C".

5. Admitted.

6. – 18. Denied. The averments in these paragraphs are legal conclusions to which no response is required. The Roosevelt Defendants have filed this Motion in Limine attempting to exclude any evidence or testimony referencing sex traffickers operating at the Roosevelt Inn, other than Additional Defendants Daiquan Davis and Abdul Lopez. Among the evidence the Roosevelt Defendants are trying to exclude is incidents of sex trafficking perpetrated by Rashaad McIntyre and Jerel Jackson who sold minors for sex at the Roosevelt Inn for periods from 2011 to 2013. This time is in the years leading up to when Plaintiff M.B. was a sex trafficking victim in 2014. Contrary to the Roosevelt Defendants' assertions, evidence of sex traffickers operating at the Roosevelt Inn is certainly relevant in this case.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

A landowner “is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

Evidence of sex traffickers operating at the Roosevelt Inn can be used to prove that dangerous criminal activity existed at the Roosevelt Inn, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable harm suffered by Plaintiff. See, e.g., Paliometros v. Loyola, 932 A.2d 128, 135 – 37 (Pa. Super. 2007) (plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel); Rabutino, 809 A.2d at 941 n.6 (finding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”); Young v. Prism Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area); Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011) (reasoning that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by a plaintiff stabbed at a motel).

Evidence of other sex traffickers operating at the Roosevelt Inn also rebuts the Roosevelt Defendants’ denial of knowledge of crimes occurring at the motel. During their depositions, the

motel's manager Yagna Patel and the employees of the motel denied any knowledge about criminal activities going on at the Roosevelt Inn.

It also would be premature to categorically exclude other traffickers' statements when they can be admissible in several different ways. Plaintiff's counsel is well-aware of the Pennsylvania Rules of Evidence and the specific rules pertaining to hearsay evidence. These statements can be admissible under a number of circumstances, including through expert testimony, refreshing a witness' recollection, and impeachment. See, e.g., Pa. R.E. 703 ("If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted."). The Roosevelt Defendants' own liability experts rely on witness statements, including the statements of Jerel Jackson and Rashaad McIntyre. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants' Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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NADEEM A. BEZAR, ESQUIRE
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M.B	:	PHILADELPHIA COUNTY
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v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE TO PRECLUDE ANY REFERENCE TO ALLEGED TRAFFICKERS OTHER
THAN ADDITIONAL DEFENDANTS DAVIS AND LOPEZ FILED BY DEFENDANTS
ROOSEVELT INN LLC, ROOSEVELT MOTOR INN, INC., UFVS MANAGEMENT
COMPANY, LLC, AND YAGNA PATEL**

I. PRELIMINARY STATEMENT

The Roosevelt Defendants have filed this Motion in Limine attempting to exclude any evidence or testimony referencing sex traffickers operating at the Roosevelt Inn, other than Additional Defendants Daiquan Davis and Abdul Lopez. This evidence includes the statements of two sex traffickers named Rashaad McIntyre and Jerel Jackson who sold minors for sex at the Roosevelt for periods from 2011 to 2013. Evidence of sex traffickers operating at the Roosevelt Inn is certainly relevant in showing that the Roosevelt Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel. Evidence of sex traffickers operating at the Roosevelt Inn can be used to prove that the existence of a dangerous criminal activity, requiring the motel to investigate and take reasonable precautions to

prevent the foreseeable future harm suffered by Plaintiff M.B. This evidence also rebuts the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel.

Plaintiff's counsel is well-aware of the Pennsylvania Rules of Evidence and the specific rules pertaining to hearsay evidence. It is premature to categorically exclude the statements from sex traffickers operating at the Roosevelt Inn when they can be used in a number of different ways, including through refreshing a witness' recollection, impeaching a witness, or expert testimony if reviewed and relied upon by an expert. The Roosevelt Defendants' own liability experts rely on witness statements, including the statements from Rashaad McIntyre and Jerel Jackson. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

II. QUESTION PRESENTED

A. Should the Court deny the Roosevelt Defendants' Motion to preclude evidence or testimony referencing sex traffickers operating at the Roosevelt Inn other than Additional Defendants Abdul Lopez and Daiquan Davis?

Suggested Answer: Yes. Evidence of sex traffickers operating at the Roosevelt Inn is certainly relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B. This evidence can also rebut the Roosevelt Defendants employees' denial of knowledge of crimes occurring at the motel. In addition, the traffickers' statements may be admissible through expert testimony, as security experts reasonably rely on witness statements when forming their opinions. Thus, it would be premature for the Court to categorically exclude this evidence.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding

the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, the Roosevelt Defendants seek to preclude the introduction of evidence any references to sex traffickers operating at the Roosevelt Inn, other than Additional Defendants Daiquan Davis and Abdul Lopez. Defendants seek the preclusion of this broad category of evidence, including statements from convicted sex traffickers Rashaad McIntyre and Jerel Jackson who sold minors for sex at the Roosevelt Inn for periods from 2011 to 2013, which are the years leading up to when M.B. was a minor sold for sex at the motel in 2014. See Statements, attached as Exhibit "D". This evidence is relevant to prove the existence of dangerous criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable precautions to protect those at the motel like M.B. from the criminal acts of third parties. This evidence also rebuts motel employees' testimony denying any knowledge of criminal activity at the Roosevelt Inn. This evidence is admissible and can be reasonably relied upon by experts, which the Roosevelt Defendants' security expert did. The Court should thus deny the Roosevelt Defendants' Motion.

IV. LEGAL ARGUMENT

A. Evidence of sex traffickers operating at the Roosevelt Inn is certainly relevant to show the existence of dangerous criminal activity at the Roosevelt Inn and rebutting motel employees' testimony denying knowledge of any criminal activity at the motel.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. “The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee’s protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses’ liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the

particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of previous criminal activity in the area. For instance, the Superior Court has found that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business’ notice of her potential harm in case involving assault through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594,

600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of past criminal activity in the area. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have found that past criminal activity near a business can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business's liquor license and previous gun incidents).

Contrary to the Roosevelt Defendants' argument, evidence of sex traffickers operating at the Roosevelt Inn is relevant to the issue of notice and contradicts the position taken by the Roosevelt Defendants that they were unaware of any criminal activity at the motel. This evidence would show that sex traffickers were operating from the Roosevelt Inn in the years leading up to when M.B. was a victim of sex trafficking at the motel. This evidence shows that

the Roosevelt Defendants knew or should have known that there was dangerous criminal activity at the motel, requiring them to investigate and take reasonable precautions against the criminal acts of third parties resulting in the foreseeable harm suffered by M.B. See Murphy, 418 A.2d at 483–84 (“[A]n examination of past criminal acts in the immediate vicinity of [the defendant’s business] leads us to conclude the jury could infer that the occurrence of the instant crime was reasonably foreseeable.”); Young, 100 A.3d at 601–02 (“... section 344 does not require for the establishment of liability that closely similar incidents of criminality have occurred at or very near the location at which the later crime occurred.”); Rabutino, 809 A.2d at 942 (plaintiff shot at motel could prove notice requirement by showing that defendant motel “perpetuated an atmosphere where it was foreseeable that a harmful confrontation involving one or more of the unruly groups in the crowded hallways could have arisen.”)).

This evidence may also be used to rebut the Roosevelt Inn witnesses’ testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants’ employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit “E”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Ex. E at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. E at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn. This testimony is contradicted by multiple other sex traffickers like Rashaad McIntyre and Jerel Jackson being able to sell minors for sex at the Roosevelt Inn.

Witness statements can reasonably be relied upon by experts in the field of security. See Pa. R.E. 703 (“If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.”). Along with his expert report, the Roosevelt Defendants’ security expert Norman Bates provided a copy of his forensic methodology relied upon when issuing his opinions. See Bates’ Methodology, attached as Exhibit “F”. This methodology was issued as “Best Practices” by the International Association of Professional Security Consultants. The methodology lists witness statements as the typical evidence reviewed by experts in premises security cases. See Ex. F at pages 3 – 4. Bates’ methodology also states that as part of security experts’ review, they typically review “Relevant crimes on the subject property for a three to five year period prior to the date of the incident” and “Relevant crimes in the immediate vicinity of the subject property for a three to five year period prior to date of the incident”. Id. The incidents of sex trafficking perpetrated by other traffickers occurred during this time window. Naturally, Norman Bates bases part of his opinions on a review of witness statements, including statements from Jerel Jackson and Rashaad McIntyre. See Expert Report of Norman Bates, attached as Exhibit “G”. The Roosevelt Defendants’ other liability expert Kimberly Mehlman-Orozco also bases her opinions on the witness statement of Daiquan Davis. See Expert Report of Kimberly Mehlman-Orozco at page 21, attached as Exhibit “H”.

Kimberly Mehlman-Orozco also discusses in her report sex traffickers other than Daiquan Davis and Abdul Lopez. She specifically relies on interviews with the sex trafficker Carlos Curtis. See Ex. H at page 19. If the Roosevelt Defendants use their expert to discuss other traffickers with no history of operating at the motel, Plaintiffs certainly should be able to discuss other traffickers who sold minors for sex at the Roosevelt Inn.

Although these traffickers' statements may not be able to be read to the jury on their own, they can be admissible under various circumstances. The statements can be used by the witness who signed the statement to refresh their recollection. See Pa. R.E. 612 ("(a) Right to Refresh Memory. A witness may use a writing or other item to refresh memory for the purpose of testifying while testifying, or before testifying."). The statements can also be used to impeach the person who made the statement in that person's testimony. Pa. R.E. 613 ("(a) Witness's Prior Inconsistent Statement to Impeach. A witness may be examined concerning a prior inconsistent statement made by the witness to impeach the witness's credibility."). It is premature to categorically exclude this evidence.

The evidence of sex traffickers operating at the Roosevelt Inn in the years before Plaintiff was trafficked at the motel is relevant to Plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. Therefore, it's premature to preclude this evidence.

V. CONCLUSION

The Court should deny the Roosevelt Defendants' Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine to Preclude Any Reference to Alleged Traffickers Other Than Additional Defendants Davis and Lopez filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome LLP
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*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
UFVS Management Company, LLC and Yagna Patel*

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Philadelphia, PA 19103
President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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Abdul Lopez, Register No. 69643-066
USP Tucson
U.S. Penitentiary
P.O. Box 24550
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KLINÉ & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine of Defendant Alpha-Centurion Security, Inc. (hereinafter “Alpha”) as to Other Plaintiffs, Plaintiff’s Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECreed** that Alpha’s Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

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NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO OTHER PLAINTIFFS

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. (hereinafter “Alpha”) as to Other Plaintiffs, as follows:

1. Denied as stated. Plaintiff M.B. is a victim of sex trafficking, and when she was a minor, she was sold for sex at the Roosevelt Inn.
2. Admitted.
3. – 4. Denied as stated. Plaintiff has identified as witnesses four victims of sex trafficking who were sold for sex as minors at the Roosevelt Inn for periods of time between 2012 and 2014. These victims are identified by their initials in order to protect their identity: K.R., B.H., C.A., and E.B.
5. – 6. Denied as stated. Abdul Lopez and Daiquan Davis did not sell for sex as minors K.R., E.B., B.H., and C.A. They were victims of sex trafficking at the Roosevelt Inn for periods

between 2012 through 2014. They have filed suit against various defendants, including the Roosevelt Inn Defendants and Alpha.

7. – 9. Denied as stated. E.B. was sold for sex as a minor at the Motel 6 Philadelphia in Essington, the Neshaminy Inn in Trevose, and the Roosevelt Inn starting in approximately October of 2014. E.B. has filed suit against the entities that own and manage the Motel 6 and the Neshaminy Inn.

10. – 26. Denied. The averments in these paragraphs are legal conclusions to which no response is required. Defendant Alpha-Centurion Security, Inc. (“Alpha”) has filed this Motion in Limine attempting to exclude any evidence or testimony referencing other victims of sex trafficking, including those who were victims of sex trafficking at the Roosevelt Inn. Alpha specifically takes issue with four victims who have filed lawsuits of their own seeking justice for their harm. These individuals are identified by their initials to protect their identity: K.R., C.A., B.H., and E.B. They were victims of sex trafficking at the Roosevelt Inn for periods from 2012 to 2014. The potential testimony that they would provide at trial is relevant in showing that Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B.

Plaintiff’s claims center on Defendants’ negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

A landowner “is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

Evidence of other sex trafficking victims at the Roosevelt Inn can be used to prove that dangerous criminal activity existed at the Roosevelt Inn, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable harm suffered by Plaintiff. See, e.g., Paliometros v. Loyola, 932 A.2d 128, 135 – 37 (Pa. Super. 2007) (plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel); Rabutino, 809 A.2d at 941 n.6 (finding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area); Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011) (reasoning that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by a plaintiff stabbed at a motel).

The cases cited by Alpha in support of its argument are not applicable to this case. None of these cases involve claims of a business’s negligence in protecting people from foreseeable criminal activity by third parties. None of these cases involve the standard applicable here for Plaintiff to prove her claims.

Evidence of other trafficking victims at the Roosevelt Inn also rebuts the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel. During their depositions, the motel manager Yagna Patel and the employees of the motel denied any knowledge about criminal activities going on at the Roosevelt Inn.

Along with the issue of notice, one of the trafficking victims, E.B., who was also sold for sex by Daiquan Davis can speak to Davis's common scheme or plan when selling minors for sex, in the way that he groomed victims, used violence, and used similar methods to sell them for sex. See Commonwealth v. Cosby, 2019 PA Super 354, 224 A.3d 372 (2019), appeal granted in part, 236 A.3d 1045 (Pa. 2020) (reasoning that trial court properly allowed the testimony of five prior victims of sexual misconduct by the perpetrator, because "victims' testimony established a distinct, signature pattern" that the perpetrator used when sexually assaulting them, similar to the complainant). Daiquan Davis has denied physically assaulting M.B. along with other forms of violence that she faced from him. E.B.'s testimony about her experience as Davis' victim would help to rebut Davis' denials.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014.¹ Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their defense. With the Roosevelt Defendants introducing

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff's counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

Precluding this evidence now is premature given the potential that witnesses may open the door to this evidence through their testimony. See Com. v. Murphy, 182 A.3d 1002, 1005 (Pa. Super. Ct. 2018) (“A litigant opens the door to inadmissible evidence by presenting proof that creates a false impression refuted by the otherwise prohibited evidence.”) (internal citations and quotation marks omitted).

The testimony and evidence from other sex trafficking victims are relevant to plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. The Court should thus deny Alpha's Motion in Limine.

27. – 28. Denied as stated. To the extent this paragraph references Plaintiff's Fourth Amended Complaint, this is a written document that speaks for itself. All characterizations of the document are denied. See the response to paragraphs 3 through 4.

29. – 35. Denied. The averments in this paragraph are legal conclusions to which no response is required. See the response to paragraphs 10 through 26.

36. Denied as stated. To the extent this paragraph references Plaintiff's Fourth Amended Complaint, this is a written document that speaks for itself. All characterizations of the document are denied. See the response to paragraphs 3 through 4.

37. – 48. Denied. The averments in this paragraph are legal conclusions to which no response is required. See the response to paragraphs 10 through 26.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny Alpha's Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO OTHER
PLAINTIFFS**

I. PRELIMINARY STATEMENT

Defendant Alpha-Centurion Security, Inc. (“Alpha”) has filed this Motion in Limine attempting to exclude any evidence or testimony referencing other victims of sex trafficking, including those who were victims of sex trafficking at the Roosevelt Inn. Alpha specifically takes issue with four victims who have filed lawsuits of their own seeking justice for their harm. These individuals are identified by their initials to protect their identity: K.R., C.A., B.H., and E.B. They were victims of sex trafficking at the Roosevelt Inn for periods from 2012 to 2014. The potential testimony that they would provide at trial is relevant in showing that Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B.

This evidence is relevant in showing that the Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B.

Evidence of other sex trafficking victims at the Roosevelt Inn can be used to show dangerous criminal activity occurring at the motel, requiring Defendants to investigate and take reasonable precautions to prevent the foreseeable harm suffered by Plaintiff M.B. This evidence also rebuts the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel. This evidence from another trafficking victim of Daiquan Davis also shows Davis' common scheme and plan when grooming minors and selling them for sex.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014. They elicited this testimony in support of their position that staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel. The Roosevelt Defendants' own security expert relies on evidence from 2015 in his expert report. Plaintiff should certainly be able to use evidence from this time, if Defendants are going to use evidence from it in their defense. The Court should thus deny Alpha's Motion in Limine.

II. QUESTION PRESENTED

- A. Should the Court deny Alpha's Motion to preclude evidence or testimony referencing other sex trafficking victims, including those at the Roosevelt Inn?**

Suggested Answer: Yes. Evidence of other sex trafficking victims at the Roosevelt Inn is relevant in showing that the Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B. This evidence also shows the common scheme or plan by Plaintiff's sex trafficker Daiquan Davis and rebuts motel employees' position denying knowledge about criminal activity at the Roosevelt Inn.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc. ("Alpha"), as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, Alpha seeks to preclude the introduction of relevant evidence of other victims of sex trafficking, including those at the Roosevelt Inn. These victims include four women who were sold for sex as minors at the Roosevelt Inn. These individuals are identified by their initials to protect their identity: K.R., C.A., B.H., and E.B. They were victims of sex trafficking for periods from 2012 to 2014. They were victims of sex trafficking during the year before and the year of M.B. being sold for sex as a minor. This evidence is relevant in showing dangerous criminal activity occurring at the Roosevelt Inn, requiring Defendants to investigate and take reasonable precautions to protect those at the motel like M.B. It shows Daiquan Davis' common scheme or plan for using violence when selling minors for sex. It also rebuts testimony from motel employees denying knowledge of criminal activity at the Roosevelt Inn.

IV. LEGAL ARGUMENT

- A. Testimony of other sex trafficking victims at the Roosevelt Inn is relevant to show the existence of dangerous criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable steps to protect those at the motel like M.B.**

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of those at the Roosevelt Inn like M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of past criminal activity in the area. For instance, the Superior Court has found that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false

imprisonments...". Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes "bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present." Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) plaintiff demonstrated the business' notice of her potential harm in case involving assault through evidence of "instances of disturbances, car thefts, muggings, purse snatches, drug use" occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault on business' premises where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of past criminal activity in the area. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have found that past criminal activity near a business can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff

showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business's liquor license and previous gun incidents).

Contrary to Alpha's argument, evidence of other sex trafficking victims at the Roosevelt Inn is relevant to the issue of notice and contradicts the position taken by the Roosevelt Defendants that they were unaware of any criminal activity at the motel. This evidence would show that in the years leading up to and the year when Plaintiff M.B. was sex trafficked at the Roosevelt Inn, other minors were also being sold for sex at the motel. These incidents of sex trafficking help to show the existence of extensive criminal activity, requiring the motel to investigate and take precautions against the reasonably foreseeable harm experienced by M.B. while at the motel. See Murphy, 418 A.2d at 483–84 (“[A]n examination of past criminal acts in the immediate vicinity of [the defendant's business] leads us to conclude the jury could infer that the occurrence of the instant crime was reasonably foreseeable.”); Rabutino, 809 A.2d at 942 (plaintiff shot at motel could prove notice requirement by showing that defendant motel “perpetuated an atmosphere where it was foreseeable that a harmful confrontation involving one or more of the unruly groups in the crowded hallways could have arisen.”). Plaintiffs do not need to prove their harm was exactly the same as some other prior crime victim at the business, under the case law defining businesses' liability for failing to take reasonable precautions against the criminal acts of third parties. See Young, 100 A.3d at 601–02 (“... section 344 does not require for the establishment of liability that closely similar incidents of criminality have occurred at or very near the location at which the later crime occurred.”).

The cases cited by Alpha in support of its argument are not applicable to this case. None of these cases involve claims of a business's negligence in protecting people from foreseeable criminal activity by third parties. None of these cases involve claims of a business's

negligence in protecting people from foreseeable criminal activity by third parties. These cases relied upon by Alpha do not involve the same legal standard needed for Plaintiff M.B. to prove her case.

This evidence may also be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit "B". He denied knowing about any times staff called the police about guests' suspected drug use or prostitution at the motel. See Ex. B at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. B at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work:¹

Q: Mr. Davis, you mentioned that when I asked you where you engaged with commercial sex work and you listed several hotels. One of those hotels listed was the Roosevelt Inn. Are you able to tell me, sir, when you engaged in commercial sex work at the Roosevelt Inn?

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff's counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

A: Yes ... The first date is October 1, 2014. The second date is October 24, 2014. The third date is October 23, 2014. The fourth date is November 24, 2014.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 23, attached as Exhibit "C".

Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their position that there was no knowledge of criminal activity at the Roosevelt Inn. The Roosevelt Defendants elicited testimony from Co-Defendant Daiquan Davis that that Roosevelt Inn staff and manager, Yagna Patel, were "rule abiding" and that the staff and hotel manager were unaware of commercial sex activity. The Roosevelt Defendants' counsel asked Mr. Davis about an interaction that he had with the motel manager Yagna Patel where Mr. Patel allegedly told Mr. Davis to go back to his room when Mr. Patel saw Davis "loitering" in the hallway:

Q: Sir, did you ever interact with someone by the name of Yagna Patel?

A: I had one interaction, yes.

Q: Can you describe for me when that one interaction occurred?

A: I'm not -- I'm not sure an accurate date, but I was loitering in the hallways and he told me to either leave the hotel or go back to my assigned room.

Q: What did you do?

A: I went back to my room.

Q: Did you tell him you were a guest?

A: Yes.

Q: Did he ask you if you were a guest?

A: I volunteered that information before he got to ask me.

See Ex. C at page 28 – 29. Davis confirmed that this incident occurred in October or November 2014. See Ex. C at page 72.

During the trial testimony of Co-Defendant Davis, counsel for the Roosevelt Defendants specifically asked Daiquan Davis about his stays at the motel after June 2014:

Q: ... As part of the commercial sex work at the Roosevelt Inn in October of 2014 was the Roosevelt Inn or anyone that you're aware of at the Roosevelt Inn aware that you were engaging in prostitution?

A No.

See Ex. C at page 26.

With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

In making opinions, the Roosevelt Defendants' security expert Norman Bates also relies on evidence after June 2014. Norman Bates analyzes in his expert report police records capturing crimes occurring at the Roosevelt Inn from 2011 to 2015, including a shooting and other crimes, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Supplemental Expert Report of Norman Bates, attached as Exhibit "D". Plaintiff should certainly be able to use evidence from this period if Defendants are going to use evidence from it in their defense.

Alpha implies that one of the victims E.B. was never sold for sex as a minor at the Roosevelt Inn. This simply is not true. E.B. was also sold for sex as a minor at the Roosevelt

Inn by Defendant Daiquan Davis. Her testimony is also relevant to the issue of Davis' common scheme or plan when selling minors for sex, in the way that he groomed victims, used violence, and used similar methods to sell them for sex. See Commonwealth v. Cosby, 2019 PA Super 354, 224 A.3d 372 (2019), appeal granted in part, 236 A.3d 1045 (Pa. 2020) (reasoning that trial court properly allowed the testimony of five prior victims of sexual misconduct by the perpetrator, because "victims' testimony established a distinct, signature pattern" that the perpetrator used when sexually assaulting them, similar to the complainant). Daiquan Davis has denied physically assaulting M.B. along with other forms of violence that she faced from him. E.B.'s testimony about her experience as Davis' victim would help to rebut Davis' denials.

The testimony and evidence of other sex trafficking victims at the Roosevelt Inn is relevant to Plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. The Court should thus deny Alpha's Motion in Limine.

V. CONCLUSION

The Court should deny Alpha's Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY:

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine to Preclude and Exclude References to Alleged Trafficking Victims filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome LLP
One Logan Square, 130 North 18th Street
Philadelphia, PA 19103

*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
UFVS Management Company, LLC and Yagna Patel*

Thomas P. Wagner, Esq.
Robert W. Stanko, Esq.
Melanie J. Foreman, Esq.
Marshall Dennehey Warner Coleman & Goggin
2000 Market Street, Suite 2300
Philadelphia, PA 19103
President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

Daiquan Davis, Register No. 72304-066
USP Terre Haute
U.S. Penitentiary
P.O. Box 33
Terre Haute, IN 47808
Pro Se Defendant

Abdul Lopez, Register No. 69643-066
USP Tucson
U.S. Penitentiary
P.O. Box 24550
Tucson, AZ 85734
Pro Se Defendant

KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine to Preclude and Exclude References to and Video Footage from January 2, 2015 filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), Plaintiff’s Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECRED** that the Roosevelt Defendants’ Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
KYLE B. NOCHO, ESQUIRE/319270

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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO
PRECLUDE AND EXCLUDE REFERENCES TO AND VIDEO FOOTAGE FROM
JANUARY 2, 2015 FILED BY DEFENDANTS ROOSEVELT INN LLC, ROOSEVELT
MOTOR INN, INC., UFVS MANAGEMENT COMPANY, LLC, AND YAGNA PATEL**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine to Preclude and Exclude References to and Video Footage from January 2, 2015 filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), as follows:

1. Denied as stated. This paragraph refers to Plaintiff's Complaint and Plaintiff's Amended Complaints. These are written documents that speak for themselves. Any characterizations of these documents are denied. See Plaintiff's Fourth Amended Complaint, attached as Exhibit “A”. This paragraph also references Plaintiff's testimony from her deposition captured in a transcript, which is a written document that speaks for itself. Any characterizations of the deposition transcript are denied.

2. Denied. The averments in these paragraphs are legal conclusions to which no response is required. The shooting incident in March 2014 at the Roosevelt Inn is relevant to Plaintiff's claims, contrary to the argument of the Roosevelt Defendants. This shooting incident occurred during the same year when M.B. was a victim of sex trafficking at the Roosevelt Inn. This evidence is relevant to show the Roosevelt Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

A landowner "is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

This video footage of a shooting between two men selling minors for sex goes to the issue of notice to the Roosevelt Defendants about the dangers posed by crime to the safety of those at the motel like M.B. These incidents put the Roosevelt Defendants on notice that the motel needed to investigate and take reasonable precautions against potential criminal acts of third parties. This evidence can be used to prove that the Plaintiff's harm was foreseeable and rebut the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel. See, e.g., Rabutino, 809 A.2d at 941 n.6 (finding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on "an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments..."); See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786,

at *5-*8 (W.D. Pa. Sept. 15, 2011) (reasoning that the plaintiff could establish notice through calls made to the police regarding crime at the motel for a period of six years prior to the time that he was stabbed at a motel); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made for crime in the area for three year period prior to the incident at issue); Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 435 – 37 (Pa.1968) (business was put on notice of potential harm experienced by plaintiff through evidence of incidents occurring in two year period prior to plaintiff's harm).

The Roosevelt Defendants' own security expert Norman Bates relies on evidence from January 2014 in his expert report when analyzing police records. He also produced a copy of his methodology, which notes that security experts typically review criminal activity three to five years before the incident at issue in premises security cases.

3. Denied. The averments in this paragraph are legal conclusions to which no response is required. See the response to paragraph 2. By way of further response, it is admitted only that Plaintiff has obtained video footage from the March 2014 shooting from the Roosevelt Defendants. Plaintiff also subpoenaed video footage from the Philadelphia District Attorney's Office relating to the Roosevelt Inn and received additional video from January 2015.

4. Denied. The averments in this paragraph are legal conclusions to which no response is required.

5. Denied as stated. This paragraph refers to Defendant Alpha's Motion to Amend its crossclaims against the Roosevelt Defendants. This is a written document that speaks for itself. All characterizations of the document are denied.

6. – 8. Denied as stated. This paragraph refers to the expert report of Jake Stone, which is a written document that speaks for itself. All characterizations of the document are denied.

9. Denied. The averments in this paragraph are legal conclusions to which no response is required. By way of further response, this paragraph refers to Plaintiff's Fourth Amended Complaint, which is a written document that speaks for itself. Any characterizations of the document are denied. See Ex. A.

10. – 12. Denied. The averments in these paragraphs are legal conclusions to which no response is required. The Roosevelt Defendants have filed this Motion in Limine attempting to exclude video footage taken in January 2015 in response to a shooting at the Roosevelt Inn. This evidence is relevant in rebutting the position taken by employees of the Roosevelt Defendants to deny knowledge of any criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014.¹ Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their defense. With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff's counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

Precluding this evidence now is premature given the potential that witnesses may open the door to this evidence through their testimony. See Com. v. Murphy, 182 A.3d 1002, 1005 (Pa. Super. Ct. 2018) (“A litigant opens the door to inadmissible evidence by presenting proof that creates a false impression refuted by the otherwise prohibited evidence.”) (internal citations and quotation marks omitted). The Court should thus deny the Roosevelt Defendants’ Motion in Limine.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants’ Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE TO PRECLUDE AND EXCLUDE REFERENCES TO AND VIDEO FOOTAGE
FROM JANUARY 2, 2015 FILED BY DEFENDANTS ROOSEVELT INN LLC,
ROOSEVELT MOTOR INN, INC., UFVS MANAGEMENT COMPANY, LLC, AND
YAGNA PATEL

I. PRELIMINARY STATEMENT

The Roosevelt Defendants have filed this Motion in Limine attempting to exclude video footage taken in January 2015 in response to a previous shooting at the Roosevelt Inn. This evidence is relevant in rebutting the position taken by employees of the Roosevelt Defendants to deny knowledge of any criminal activity occurring at the Roosevelt Inn.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014. They elicited this

testimony in support of their position that staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

The Roosevelt Defendants' own security expert relies on evidence from 2015 in his expert report. Plaintiff should certainly be able to use evidence from this time, if Defendants are going to use evidence from it in their defense.

Precluding this evidence now is premature given the potential that witnesses may open the door to this evidence through their testimony. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

II. QUESTION PRESENTED

A. Should the Court deny the Roosevelt Defendants' Motion to preclude the evidence of video footage from January 2015 resulting from a investigation opened into a shooting at the Roosevelt Inn?

Suggested Answer: Yes. This evidence is relevant in rebutting the testimony from motel staff denying knowledge of any criminal activity occurring at the Roosevelt Inn. This evidence may also be used to rebut the Roosevelt Defendants' use of evidence from after June 2015 in their defense in the trial testimony of Defendant Daiquan Davis and in their expert's opinions.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and

Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, the Roosevelt Defendants seek to preclude the introduction of relevant evidence of video footage taken in January 2015 in response to a previous shooting at the Roosevelt Inn. This evidence is relevant in rebutting the position taken by employees of the Roosevelt Defendants to deny knowledge of any criminal activity occurring at the Roosevelt Inn. This evidence may also be used to rebut the Roosevelt Defendants' intention to use in their defense at trial alleged incidents that occurred after June 2014. They have previewed this strategy in the trial testimony of Co-Defendant Daiquan Davis, and the Roosevelt Defendants' own security expert relies on evidence from 2015 in his expert report. Plaintiff should certainly be able to use evidence from this time, if Defendants are going to use evidence from it in their defense. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

IV. LEGAL ARGUMENT

- A. The video evidence may be used to rebut denials by motel staff of knowledge about criminal activity at the Roosevelt Inn. In addition, the evidence may be used, because the Roosevelt Defendants have previewed an intention to use evidence of incidents after June 2014 in their defense.**

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

This video footage evidence at issue may be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the

Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit “B”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Ex. B at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. B at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn. This testimony is contradicted by video footage taken in response to a shooting at the motel.

Precluding this evidence now is premature given the “opening the door” doctrine. See Com. v. Murphy, 182 A.3d 1002, 1005 (Pa. Super. Ct. 2018) (“A litigant opens the door to inadmissible evidence by presenting proof that creates a false impression refuted by the otherwise prohibited evidence.”) (internal citations and quotation marks omitted). If motel staff called to testify create a false impression refuted by this evidence, then Plaintiff should be permitted to cross-examine them regarding this evidence.

Counsel for the Roosevelt Defendants’ own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014. The Roosevelt Defendants’ counsel elicited testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work:¹

Q: Mr. Davis, you mentioned that when I asked you where you engaged with commercial sex work and you listed several hotels. One of those hotels listed was the Roosevelt Inn. Are you able to tell me, sir, when you engaged in commercial sex work at the Roosevelt Inn?

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff’s counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

A: Yes ... The first date is October 1, 2014. The second date is October 24, 2014. The third date is October 23, 2014. The fourth date is November 24, 2014.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 23, attached as Exhibit "C".

Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their position that there was no knowledge of criminal activity at the Roosevelt Inn. The Roosevelt Defendants elicited testimony from Co-Defendant Daiquan Davis that that Roosevelt Inn staff and manager, Yagna Patel, were "rule abiding" and that the staff and hotel manager were unaware of commercial sex activity. The Roosevelt Defendants' counsel asked Mr. Davis about an interaction that he had with the motel manager Yagna Patel where Mr. Patel allegedly told Mr. Davis to go back to his room when Mr. Patel saw Davis "loitering" in the hallway:

Q: Sir, did you ever interact with someone by the name of Yagna Patel?

A: I had one interaction, yes.

Q: Can you describe for me when that one interaction occurred?

A: I'm not -- I'm not sure an accurate date, but I was loitering in the hallways and he told me to either leave the hotel or go back to my assigned room.

Q: What did you do?

A: I went back to my room.

Q: Did you tell him you were a guest?

A: Yes.

Q: Did he ask you if you were a guest?

A: I volunteered that information before he got to ask me.

See Ex. C at page 28 – 29. Davis confirmed that this incident occurred in October or November 2014. See Ex. C at page 72.

During the trial testimony of Co-Defendant Davis, counsel for the Roosevelt Defendants specifically asked Daiquan Davis about his stays at the motel after June 2014:

Q: ... As part of the commercial sex work at the Roosevelt Inn in October of 2014 was the Roosevelt Inn or anyone that you're aware of at the Roosevelt Inn aware that you were engaging in prostitution?

A No.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 26, attached as Exhibit “C”.

With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence from this time to rebut the Roosevelt Defendants’ claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

In making opinions, the Roosevelt Defendants’ security expert Norman Bates also relies on evidence after June 2014. Norman Bates analyzes in his expert report police records capturing crimes occurring at the Roosevelt Inn from 2011 to 2015, including a shooting and other crimes, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Supplemental Expert Report of Norman Bates, attached as Exhibit “D”. Plaintiff should certainly be able to use evidence from this period if Defendants are going to use evidence from it in their defense.

This video evidence of criminal activity at the Roosevelt Inn is relevant to Plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. The Court should thus deny Defendants' Motion.

V. CONCLUSION

The Court should deny the Roosevelt Defendants' Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine to Preclude and Exclude References to and Video Footage from January 2, 2015 filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome LLP
One Logan Square, 130 North 18th Street
Philadelphia, PA 19103

*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
UFVS Management Company, LLC and Yagna Patel*

Thomas P. Wagner, Esq.
Robert W. Stanko, Esq.
Melanie J. Foreman, Esq.
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2000 Market Street, Suite 2300
Philadelphia, PA 19103
President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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U.S. Penitentiary
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Pro Se Defendant

KLINÉ & SPECTER, P.C.

/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine of Defendant Alpha-Centurion Security, Inc. as to Inadmissible Hearsay, Plaintiff's Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECreed** that Defendant Alpha-Centurion Security, Inc.'s Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE OF
DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO INADMISSIBLE
HEARSAY**

Plaintiff by and through her attorneys, Kline & Specter, hereby responds in opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. (hereinafter “Alpha”) as to Inadmissible Hearsay, as follows:

1. Denied as stated. Plaintiff M.B. is a victim of sex trafficking, and when she was a minor, she was sold for sex at the Roosevelt Inn. To the extent that this paragraph refers to Plaintiff’s Fourth Amended Complaint, that is a written document that speaks for itself. Any characterizations of the document are denied. See Plaintiff’s Fourth Amended Complaint, attached as Exhibit “A”.

2. Denied. The averments in this paragraph are legal conclusions to which no response is required.

3. Denied as stated. Police records obtained through discovery includes details from an undercover police operation for commercial sex activity at the Roosevelt Inn. The records note

that a person arrested for prostitution reported that a security guard would warn her when police were at the motel. Also, in discovery, a former security guard at the Roosevelt Inn provided testimony that he was reassigned from his job based on accusations that he sold room keys.

4. Denied as stated. During discovery, Plaintiff has obtained online reviews of the Roosevelt with comments providing notice to the motel of customer complaints about criminal activity occurring at the Roosevelt Inn, including commercial sex activity. Plaintiff has also obtained statements from victims of sex trafficking at the Roosevelt Inn and a convicted sex trafficker who previously sold minors for sex at the Roosevelt Inn.

5. – 20. Denied. The averments in these paragraphs are legal conclusions to which no response is required. Defendant Alpha-Centurion Security, Inc. (“Alpha”) has filed this Motion in Limine attempting to exclude evidence of extensive criminal activity at the Roosevelt and negative online reviews of the motel. This evidence includes: 1) witness testimony regarding a former security guard allegedly selling room keys; 2) police records from an undercover police operation for commercial sex activity at the Roosevelt Inn; 3) statements from sex trafficking victims and a sex trafficker who operated out of the Roosevelt Inn; and 4) online negative reviews of the Roosevelt Inn complaining of criminal activity.

Contrary to Alpha’s argument, evidence of security guard malfeasance and extensive criminal activity crime occurring at the Roosevelt Inn is relevant in showing that the Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel.

Testimony about a former security guard accused of selling room keys is relevant and admissible to prove Plaintiff’s claims and the Roosevelt Defendants’ crossclaims against Alpha. Plaintiff’s claims involve how Alpha provided negligent security securities at the Roosevelt Inn,

including failing to assign and retain proper security personnel at the motel. See Ex. A at ¶ 84.

Testimony related to how former security guard Kelvin Hanton was accused of selling room keys is relevant to these issues and Alpha's failure to meet its contractual obligations to the Roosevelt Inn to provide competent security services. Kelvin Hanton worked at the Roosevelt Inn during the time that Plaintiff was a sex trafficking victim. He has testified that he was reassigned after accusations were made against him that he sold room keys. See Deposition Transcript of Kelvin Hanton, attached as Exhibit "B" at page 66 – 71 (Q: Why did you stop working at the Roosevelt Inn? A: Why did I stop working there? Because I was accused of selling rooms to people – selling room key cards?). Mr. Hanton denied ever selling the keys. See id.

This accusation explains why Mr. Hanton was reassigned from the Roosevelt Inn, not that he did in fact sell room keys. It is the jury's role to determine whether they believe Mr. Hanton and what weight they would place on this testimony. See Kauffman v. City of Philadelphia, 144 Pa. Cmwlth. 444, 451, 601 A.2d 910, 913 (1992) (reasoning that the jury has the role "to decide the facts, the credibility of witnesses, and the weight to be given the evidence").

This evidence may also be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the motel. Defendants and Alpha's failures to act show they were complicit in allowing criminal activity to occur.

Despite arguing that police records and witness statements are unreliable and inadmissible, Defendants' own experts rely on this evidence when making their opinions. The Roosevelt Defendants' security expert Norman Bates details how the police records capture

crimes occurring at the Roosevelt Inn from 2011 to 2014, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Expert Report of Norman Bates at pages 6 – 8, attached as Exhibit “C”. The Roosevelt Defendants’ other liability expert Kimberly Mehlman-Orozco also bases her opinions off a review of police records. See Expert Report of Kimberly Mehlman-Orozco, attached as Exhibit “D” at page 23. Alpha’s liability expert James Francis also bases his opinions on a review of police records, reasoning that a review of police records “demonstrates a frequent presence of police at the Roosevelt Inn and an undisputed knowledge by police personnel of commercial sexual activities therein.” See Supplemental Expert Report of James Francis at page 11, attached as Exhibit “E”.

Defense liability experts similarly rely on witness statements in their expert reports. Norman Bates relies on witness statements, including the sex traffickers Daiquan Davis, Abdul Lopez, Rashaad McIntyre, and Jerel Jackson. See Ex. C. The Roosevelt Defendants’ other liability expert Kimberly Mehlman-Orozco also bases her opinions on the declaration of Daiquan Davis. See Ex. D at page 21. If Defendants can rely on witness statements in their expert testimony, then Plaintiff certainly should be able to use these statements describing sex trafficking occurring at the Roosevelt Inn in support of her claims.

Police records and witness statements are the types of evidence that experts can reasonably rely upon in the field of security. See Pa. R.E. 703 (“If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.”). Along with his expert report, the Roosevelt Defendants’ security expert Norman Bates provided a copy of his forensic methodology relied upon when issuing his opinions. See Bates’ Methodology, attached as

Exhibit “F”. This methodology was issued as “Best Practices” by the International Association of Professional Security Consultants. The methodology lists witness statements and police records as the typical evidence reviewed by experts in premises security cases. See Ex. F at pages 3 – 4. Although some of this evidence may not be able to be read to the jury on its own, the evidence can be admissible under various circumstances. The evidence can be admissible through expert testimony as discussed above. It is premature to categorically exclude this evidence.

In addition, the evidence of online reviews is relevant and admissible to prove notice. This evidence can be used to prove that the Roosevelt Inn was on notice of the need to investigate and take reasonable precautions against the criminal conduct of third parties. See Castellani v. Scranton Times, L.P., 633 Pa. 230, 254, 124 A.3d 1229, 1244 (2015) (“Out-of-court statements offered to establish notice to a defendant are not hearsay.”). Contrary to Alpha’s arguments, this evidence is not offered for the truth of the matter asserted, and thus it is not hearsay. See Fernandez v. City of Pittsburgh, 164 Pa. Cmwlth. 662, 673, 643 A.2d 1176, 1182 (1994) (“Out-of-court statements not offered to prove the truth of the matters asserted are not hearsay and are admissible if relevant for other proper purposes.”).

The Roosevelt Defendants have openly admitted to monitoring this type of evidence. The manager of the motel Yagna Patel testified that a motel employee named Candace Gordiano would read online reviews and tell him about various customer complaints, including complaints about drug use and prostitution at the Roosevelt Inn. See Ex. D at page 331 – 333. Rather than taking these complaints seriously and reconsidering the motel’s security measures, Mr. Patel disregarded the complaints, assuming they were only people mad about getting a refund.

This evidence of notice and the extensive criminal activity at the Roosevelt Inn is relevant to Plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. Therefore, it's premature to categorically exclude this evidence

21. – 24. Denied as stated. These paragraphs refer to the transcript for the deposition of Yagna Patel, which is a written document that speaks for itself. Any characterizations of the document are denied.

25. Denied as stated. This paragraph refers to the transcript for the deposition of Kelvin Hanton, which is a written document that speaks for itself. Any characterizations of the document are denied.

26. – 30. Denied as stated. These paragraphs refer to the transcript for the deposition of Yagna Patel, which is a written document that speaks for itself. Any characterizations of the document are denied.

31. – 33. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

34. Denied as stated. This paragraph refers to Plaintiff's Fourth Amended Complaint, which is a written document that speaks for itself. Any characterizations of this document are denied. See Ex. A.

35. Denied. The averments in this paragraph are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

36. Denied. This paragraph refers to Philadelphia Police Department records, which are written documents that speak for themselves. Any characterizations of the documents are denied.

37. Denied. The averments in this paragraph are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

38. – 43. Denied. These paragraphs refer to Philadelphia Police Department records, which are written documents that speak for themselves. Any characterizations of the documents are denied.

44. Denied. This paragraph refers to Plaintiff's First Amended Pre-Trial Memorandum, which is a written document that speaks for itself. Any characterizations of the document are denied.

45. – 51. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

52. – 54. Denied. These paragraphs refer to Philadelphia Police Department records, which are written documents that speak for themselves. Any characterizations of the documents are denied.

55. – 56. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

57. Admitted.

58. Admitted.

59. Admitted

60. Admitted.

61. Denied as stated. This paragraph refers to Plaintiff's First Amended Pre-Trial Memorandum, which is a written document that speaks for itself. Any characterizations of the document are denied.

62. – 65. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraph number 5 to 20.

66. Denied as stated. The statements from K.S., A.G., and T.C. discuss the experiences of three victims of sex trafficking who were sold for sex as minors at the Roosevelt Inn. See Victim Statements, attached as Exhibit “G”.

67. Admitted. See Statement of Jerel Jackson, attached as Exhibit “H”.

68. – 70. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

71. – 73. Denied as stated. These paragraphs refer to the Victim Statements and Plaintiff’s Fourth Amended Complaint, which are written documents that speak for themselves. Any characterizations of the documents are denied. See Exs. A & B.

74. Denied as stated. This paragraph refers to the Statement of Jerel Jackson, which is a written document that speaks for itself. Any characterizations of the document are denied. See Ex. C.

75. – 77. Denied. The averments in these paragraph are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

78. Admitted.

79. Denied as stated. This paragraph refers to Richard Hudak’s Expert Report, which is a written document that speaks for itself. Any characterizations of the document are denied.

80. Denied as stated. This paragraph refers to Michelle Guelbart’s Expert Report, which is a written document that speaks for itself. Any characterizations of the document are denied.

81. – 88. Denied. The averments in these paragraphs are legal conclusions to which no response is required. See the response to paragraphs 5 to 20.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny Alpha's Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. AS TO
INADMISSIBLE HEARSAY

I. PRELIMINARY STATEMENT

Defendant Alpha-Centurion Security, Inc. (“Alpha”) has filed this Motion in Limine attempting to exclude evidence of extensive criminal activity at the Roosevelt and negative online reviews of the motel. This evidence includes: 1) witness testimony regarding a former security guard allegedly selling room keys; 2) police records from an undercover police operation for commercial sex activity at the Roosevelt Inn; 3) statements from sex trafficking victims and a sex trafficker who operated out of the Roosevelt Inn; and 4) online negative reviews of the Roosevelt Inn complaining of criminal activity.

Contrary to Alpha’s argument, evidence of security guard malfeasance and extensive criminal activity crime occurring at the Roosevelt Inn is relevant in showing that the Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel threatening the safety of those at the motel like M.B. This evidence can be used to

prove that the existence of dangerous criminal activity, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable future harm suffered by Plaintiff M.B.

This evidence also is relevant to rebutting the testimony from the Roosevelt Inn employees that they were unaware of any criminal activity at the Roosevelt Inn.

Online reviews of customer complaints are also admissible and relevant to the issue of notice. These reviews would not be offered for the truth of the matter asserted; rather, the complaints can prove notice to the motel of need to investigate and consider reasonable precautions against the criminal conduct of third parties.

Plaintiff's counsel is well-aware of the Pennsylvania Rules of Evidence and the specific rules pertaining to hearsay evidence. It is premature to categorically exclude broad categories of evidence like witness statements and police records, when this evidence can be used in a number of different ways, including through expert testimony. Defendants' own liability experts rely on police records and witness statements in their expert reports. The Court should thus deny Alpha's Motion in Limine.

II. QUESTION PRESENTED

A. Should the Court deny Alpha's Motion to preclude evidence of criminal activity occurring at the Roosevelt Inn, including testimony that a security guard was fired for accusations of selling room keys, police records of security guards warning guests about police presence, witness statements of sex trafficking at the motel, and online reviews of the motel?

Suggested Answer: Yes. Evidence of crime occurring at the Roosevelt Inn is relevant in showing that Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B. This evidence can also rebut the Roosevelt Defendants employees' denial of knowledge of crimes occurring at the motel. This evidence records may be admissible through a number of different ways, including expert testimony, as security experts reasonably rely on police records and witness statements when forming their opinions. Defendants' own liability experts rely on this type of evidence. In addition, online reviews can be admissible to show notice and not offered for the truth of the matter asserted. It would be premature for the Court to categorically exclude this evidence. The Court should deny Alpha's Motion in Limine.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Defendant Alpha-Centurion Security, Inc. ("Alpha") has filed this Motion in Limine attempting to exclude evidence of extensive criminal activity at the Roosevelt and negative online reviews of the motel. This evidence includes: 1) witness testimony regarding a former security guard allegedly selling room keys; 2) police records from an undercover police operation for commercial sex activity at the Roosevelt Inn; 3) statements from sex trafficking victims and a sex trafficker who operated out of the Roosevelt Inn; and 4) online negative reviews of the Roosevelt Inn complaining of criminal activity.

This evidence is relevant in showing that the Defendants knew or should have known that there was a likelihood of dangerous criminal activity occurring at the motel. This evidence can be used to prove the existence of dangerous criminal activity, requiring the motel to investigate and take reasonable precautions to prevent the foreseeable future harm suffered by Plaintiff M.B. This evidence also is relevant to rebutting the testimony from the Roosevelt Inn employees that

they were unaware of any criminal activity at the Roosevelt Inn. Online reviews of customer complaints are also admissible and relevant to the issue of notice. These reviews would not be offered for the truth of the matter asserted; rather, the complaints can prove notice to the motel of need to investigate and consider reasonable precautions against the criminal conduct of third parties. It is premature to categorically exclude broad categories of evidence like witness statements and police records, when this evidence can be used in a number of different ways, including through expert testimony. Defendants' own liability experts rely on police records and witness statements in their expert reports. The Court should thus deny Alpha's Motion in Limine.

IV. LEGAL ARGUMENT

A. This evidence is relevant to show the existence of dangerous criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable steps to protect those at the motel like M.B.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsip v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa.1968) (reasoning that § 344 applied when deciding whether a busines was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965); Negligence--Failure to Prevent Intentional Harm to Business Invitees, Pa. SSJI (Civ), §18.120 (2020).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses "know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual." Id. The Comment further states: "If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection." Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of past criminal activity in the area. For instance, the Superior Court has found that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business’ notice of her potential harm in case ionvolv through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of crimes in the area, other than the one committed

against the plaintiff. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have found that other crimes can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business’s liquor license and previous gun incidents).

Contrary to Defendant Alpha’s argument, the evidence at issue in this motion is relevant to showing the existence of extensive criminal activity, requiring the motel to investigate and take reasonable steps to protect those at the Roosevelt Inn like M.B. This evidence includes: 1) witness testimony regarding a former security guard allegedly selling room keys; 2) police records from an undercover police operation for commercial sex activity at the Roosevelt Inn; 3) statements from sex trafficking victims and a sex trafficker who operated out of the Roosevelt Inn; and 4) online negative reviews of the Roosevelt Inn complaining of criminal activity.

Testimony about a former security guard accused of selling room keys is relevant and admissible to prove Plaintiff’s claims and the Roosevelt Defendants’ crossclaims against Alpha. Plaintiff’s claims involve how Alpha provided negligent security securities at the Roosevelt Inn,

including failing to assign and retain proper security personnel at the motel. See Ex. A at ¶ 84.

Testimony related to how former security guard Kelvin Hanton was accused of selling room keys is relevant to these issues and Alpha's failure to meet its contractual obligations to the Roosevelt Inn to provide competent security services. Kelvin Hanton worked at the Roosevelt Inn during the time that Plaintiff was a sex trafficking victim. He has testified that he was reassigned after accusations were made against him that he sold room keys:

Q: Why did you stop working at the Roosevelt Inn?

A: Why did I stop working there? Because I was accused of selling rooms to people – selling room key cards. That's what I was initially let go from there for, selling room keys.

Q: ...after this accusation was made, did you continue to work at the Roosevelt Inn?

A: No.

Q: Did you continue to work for Alpha Centurion?

A: Yes.

Q: Were you transferred somewhere else?

A: Yes

See Deposition Transcript of Kelvin Hanton, attached as Exhibit "B" at page 66 – 71. Mr.

Hanton denied ever selling the keys. See id.

This accusation explains why Mr. Hanton was reassigned from the Roosevelt Inn, not that he did in fact sell room keys. It is the jury's role to determine whether they believe Mr. Hanton and what weight they would place on this testimony. See Kauffman v. City of Philadelphia, 144 Pa. Cmwlth. 444, 451, 601 A.2d 910, 913 (1992) (reasoning that the jury has the role "to decide the facts, the credibility of witnesses, and the weight to be given the evidence").

This evidence may also be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit "I". He denied knowing about any times staff called the police about guests' suspected drug use or prostitution at the motel. See Ex. I at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. I at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

Despite arguing that police records and witness statements are unreliable and inadmissible, Defendants' own experts rely on this evidence when making their opinions. The Roosevelt Defendants' security expert Norman Bates details how the police records capture crimes occurring at the Roosevelt Inn from 2011 to 2014, such as armed robberies, fire arm violations, thefts, statutory sexual assault, simple assaults, rape, prostitution, assault, attempted rape, and corrupting the morals of a minor. See Expert Report of Norman Bates at pages 6 – 8, attached as Exhibit "C". Norman Bates also relies on police call for service reports, which the Roosevelt Defendants are attempting to exclude:

Based on the CFS [Call for Service] from the Philadelphia Police Department and testimony from representatives of the Roosevelt Inn, there was a problem with prostitution activity in 2013 at the both the Roosevelt Inn and apparently in the northeast section of Philadelphia. In 2013, there were thirteen reports of prostitution, including two that involved minors. In the first six months of 2014, there were two reports of prostitution and those occurred in January and February of prior to plaintiff's alleged presence at the hotel.

See Ex. C at page 7.

The Roosevelt Defendants' other liability expert Kimberly Mehlman-Orozco also bases her opinions off a review of police records. She opines about the credibility of evidence demonstrating open and obvious commercial sex activity by writing that the reliability of this evidence "is further brought into question, when examined in the context of the police reports originating at the Roosevelt Inn."¹ See Expert Report of Kimberly Mehlman-Orozco, attached as Exhibit "D" at page 23. Alpha's liability expert James Francis also bases his opinions on a review of police records, reasoning that a review of police records "demonstrates a frequent presence of police at the Roosevelt Inn and an undisputed knowledge by police personnel of commercial sexual activities therein." See Supplemental Expert Report of James Francis at page 11, attached as Exhibit "E".

Defense liability experts similarly rely on witness statements in their expert reports. Norman Bates relies on witness statements, including the sex traffickers Daiquan Davis, Abdul Lopez, Rashaad McIntyre, and Jerel Jackson. See Ex. C. The Roosevelt Defendants' other liability expert Kimberly Mehlman-Orozco also bases her opinions on the declaration of Daiquan Davis. See Ex. D at page 21. If Defendants can rely on witness statements in their expert testimony, then Plaintiff certainly should be able to use these statements describing sex trafficking occurring at the Roosevelt Inn in support of her claims.

Police records and witness statements are the types of evidence that experts can reasonably rely upon in the field of security. See Pa. R.E. 703 ("If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted."). Along with his expert report, the

¹ This opinion by expert Kimberly Mehlman-Orozco is also the subject of Plaintiff's Motion in Limine to Preclude Defendants from Soliciting Testimony and Opinions Concerning the Credibility of Evidence and Witnesses.

Roosevelt Defendants' security expert Norman Bates provided a copy of his forensic methodology relied upon when issuing his opinions. See Bates' Methodology, attached as Exhibit "F". This methodology was issued as "Best Practices" by the International Association of Professional Security Consultants. The methodology lists witness statements and police records as the typical evidence reviewed by experts in premises security cases. See Ex. F at pages 3 – 4. Although some of this evidence may not be able to be read to the jury on its own, the evidence can be admissible under various circumstances. The evidence can be admissible through expert testimony as discussed above. It is premature to categorically exclude this evidence.

In addition, the evidence of online reviews is relevant and admissible to prove notice. This evidence can be used to prove that the Roosevelt Inn was on notice of the need to investigate and take reasonable precautions against the criminal conduct of third parties. See, e.g., Castellani v. Scranton Times, L.P., 633 Pa. 230, 254, 124 A.3d 1229, 1244 (2015) ("Out-of-court statements offered to establish notice to a defendant are not hearsay."). Contrary to Alpha's arguments, this evidence is not offered for the truth of the matter asserted, and thus it is not hearsay. See Fernandez v. City of Pittsburgh, 164 Pa. Cmwlth. 662, 673, 643 A.2d 1176, 1182 (1994) ("Out-of-court statements not offered to prove the truth of the matters asserted are not hearsay and are admissible if relevant for other proper purposes."). A limiting instruction could be used to prevent any of Alpha's concerns from arising. See Castellani, 633 Pa. at 265.

The Roosevelt Defendants have openly admitted to monitoring this type of evidence. The manager of the motel Yagna Patel testified that a motel employee named Candace Gordiano would read online reviews and tell him about various customer complaints, including complaints about drug use and prostitution at the Roosevelt Inn:

Q: What did Ms. Gordiano tell you people were saying on the websites about the Roosevelt?

A: Some people said good things, but some people – because we don't give them refund or they want money back or something, then they just make excuse and they write anything.

Q: Did she ever tell you that people on reviews noted that there was drug use at the Roosevelt?

A: Couple times, yes.

Q: Did she ever tell you that people on the reviews noted that there were -- that there was prostitution going on at the Roosevelt?

A: One or two time, yes.

See Ex. I at page 331 – 333. Rather than taking these complaints seriously and reconsidering the motel's security measures, Mr. Patel disregarded the complaints, assuming they were only people mad about getting a refund.

This evidence of notice and the extensive criminal activity at the Roosevelt Inn is relevant to Plaintiff's claims against the Roosevelt Defendants and Defendant Alpha. Therefore, it's premature to categorically exclude this evidence.

V. CONCLUSION

The Court should deny Alpha's Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE

EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE

Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. as to Extraneous Criminal Activity***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Justina L. Byers, Esquire
Blank Rome LLP
One Logan Square, 130 North 18th Street
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Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC and Yagna Patel

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President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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Pro Se Defendant

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Pro Se Defendant

KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

E. MEENAN

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of Motion in Limine of Defendant Alpha-Centurion Security, Inc. to Preclude Reference to Pennsylvania's Human Trafficking Laws, and any response in opposition thereto, it is hereby:

ORDERED and **DECreed** that Defendant Alpha-Centurion Security, Inc.'s Motion is **DENIED**.

BY THE COURT

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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1525 Locust Street
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Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

PLAINTIFF'S RESPONSE TO MOTION IN LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. TO PRECLUDE REFERENCE TO PENNSYLVANIA'S HUMAN TRAFFICKING LAWS

Plaintiff M.B. (“Plaintiff”), by her counsel, Kline & Specter, P.C, responds in opposition to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. (hereinafter “Alpha”) to Preclude Reference to Pennsylvania’s Human Trafficking Laws as follows:

1. Denied as stated. This paragraph refers to Plaintiff’s Fourth Amended Complaint, which is a document that speaks for itself. Any characterizations of the document are denied.
2. Denied as stated. This paragraph refers to the transcript of the deposition of Plaintiff M.B. This transcript is a document that speaks for itself. Any characterizations of the document are denied.
3. Denied. The averments in this paragraph are legal conclusions to which no response is required.
4. Denied as stated. This paragraph refers to Plaintiff’s Complaint, which is a document that speaks for itself. Any characterizations of the document are denied.

5. Denied as stated. This paragraph refers to Plaintiff's Fourth Amended Complaint, which is a document that speaks for itself. Any characterizations of the document are denied.

6. Denied as stated. This paragraph refers to Plaintiff's Motion for Leave to File a Fourth Amended Complaint, which is a document that speaks for itself. Any characterizations of the document are denied.

7. Denied as stated. See response to Paragraph 1.

8. – 26. Denied. The averments in these paragraphs are legal conclusions to which no response is required. In this case, Plaintiff has asserted common law negligence claims against Defendant Alpha and the Roosevelt Defendants arising from her being a minor victim of sex trafficking at the Roosevelt Inn. She is not asserting any civil claims under the Pennsylvania Human Trafficking Law, 18 Pa. C.S. § 3011, et seq., ("PAHTL"). The Roosevelt Defendants still plan to offer testimony at trial from their liability expert that Plaintiff does not have a civil claim under the PAHTL, which is the subject of a different motion in limine.

Alpha has filed the instant Motion in Limine to preclude Plaintiff's counsel from making any reference to the Pennsylvania Human Trafficking Law, 18 Pa. C.S. § 3011, et seq., ("PAHTL"), which the Roosevelt Defendants have joined in support. The Court should reject Defendants' attempt to unfairly preclude Plaintiff from referencing the PAHTL's definition of sex trafficking, while using the statute to try to cast doubt on her common law negligence claims.

The Court should deny Alpha's Motion in Limine, because the statute is relevant to define the term "sex trafficking". Plaintiff is not attempting to assert a civil claim under the PAHTL. Both Plaintiff and Alpha's liability experts have referenced the statute to define sex trafficking. Whether it's the PAHTL or the federal Trafficking Victims Protection Act ("TVPA"), 22 U.S.C. § 7102, cited by some of Defendants' experts, both statutes similarly define sex trafficking as selling a minor for sex without the requirement of force, fraud or

coercion. The definition is near identical under both the PAHTL and the TVPA. It's not about the application of the law. It's just a footnote to define sex trafficking. There is nothing inflammatory or prejudicial in using the statute's definition of sex trafficking. The Court should deny Alpha's Motion.

WHEREFORE, Plaintiff requests that this Honorable Court enter an Order denying the Motion in Limine of Defendant Alpha-Centurion Security, Inc. to Preclude Reference to Pennsylvania's Human Trafficking Laws.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY:

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

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Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF HER RESPONSE TO
MOTION IN LIMINE OF DEFENDANT ALPHA-CENTURION SECURITY, INC. TO
PRECLUDE REFERENCE TO PENNSYLVANIA'S HUMAN TRAFFICKING LAWS**

Plaintiff M.B. (“Plaintiff”), by her counsel, Kline & Specter, P.C., respectfully submits this Memorandum of Law in Support of her Response to the Motion in Limine of Defendant Alpha-Centurion Security, Inc. (hereinafter “Alpha”) to Preclude Reference to Pennsylvania’s Human Trafficking Laws.

I. PRELIMINARY STATEMENT

In this case, Plaintiff has asserted common law negligence claims against Defendant Alpha and the Roosevelt Defendants arising from her being a minor victim of sex trafficking at the Roosevelt Inn. She is not asserting any civil claims under the Pennsylvania Human Trafficking Law, 18 Pa. C.S. § 3011, et seq., (“PAHTL”). The Roosevelt Defendants still plan to offer testimony at trial from their liability expert that Plaintiff does not have a civil claim under the PAHTL, which is the subject of a different motion in limine.

Alpha has filed the instant Motion in Limine to preclude Plaintiff’s counsel from making any reference to the Pennsylvania Human Trafficking Law, 18 Pa. C.S. § 3011, et seq.,

(“PAHTL”), which the Roosevelt Defendants have joined in support. The Court should reject Defendants’ attempt to unfairly preclude Plaintiff from referencing the PAHTL’s definition of sex trafficking, while using the statute to try to cast doubt on her common law negligence claims.

The Court should deny Alpha’s Motion in Limine, because the statute is relevant to define the term “sex trafficking”. Plaintiff is not attempting to assert a civil claim under the PAHTL. Both Plaintiff and Alpha’s liability experts have referenced the statute to define sex trafficking. Whether using the definition under the PAHTL or the federal Trafficking Victims Protection Act (“TVPA”), 22 U.S.C. § 7102, cited by some of Defendants’ experts, both statutes similarly define sex trafficking as selling a minor for sex without the requirement of force, fraud or coercion. The definition is nearly identical under the TVPA and the PAHTL. It’s not about the application of the law. It’s just a footnote to define sex trafficking. There is nothing inflammatory or prejudicial in using the statute’s definition of sex trafficking. The Court should deny Alpha’s Motion.

II. QUESTION PRESENTED

1. Should this Honorable Court permit Plaintiff to use the Pennsylvania Human Trafficking Law to define the term “sex trafficking” as Defendants’ experts have?

SUGGESTED ANSWER: *Yes. The Pennsylvania Human Trafficking Law is relevant to defining the term sex trafficking, as both Plaintiff and Defendants’ experts have used the statute to define sex trafficking.*

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

Plaintiff was the victim of sex trafficking that occurred at the Roosevelt Inn when she was just fourteen years old from about January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel’s management company, UFVS Management Company, LLC; and the motel’s manager, Yagna Patel (hereinafter collectively, “Roosevelt Defendants”).

On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha, as an additional defendant.

The Court should deny Alpha's Motion in Limine, because the PAHTL is relevant to define the term "sex trafficking". Plaintiff is not attempting to assert a civil claim under the PAHTL. Both Plaintiff and Alpha's liability experts have referenced the statute to define sex trafficking. Whether using the definition under the PAHTL or under the federal Trafficking Victims Protection Act ("TVPA"), 22 U.S.C. § 7102, cited by some of Defendants' experts, both statutes similarly define sex trafficking as selling a minor for sex without the requirement of force, fraud or coercion. The definition is nearly identical under both the TVPA and the PAHTL. It's not about the application of the law. It's just a footnote to define sex trafficking. There is nothing inflammatory or prejudicial in using the statute's definition of sex trafficking. The Court should deny Alpha's Motion.

IV. THE COURT SHOULD NOT PRECLUDE THE PARTIES FROM USING THE DEFINITION OF SEX TRAFFICKING FROM THE PENNSYLVANIA HUMAN TRAFFICKING LAW.

The Court should deny Alpha's Motion in Limine, because the statute is relevant to define the term "sex trafficking". Plaintiff is not attempting to assert a civil claim under the PAHTL. Both Plaintiff and Alpha's liability experts have referenced the statute to define sex trafficking. Whether using the definition under the PAHTL or under the federal Trafficking Victims Protection Act ("TVPA"), 22 U.S.C. § 7102, cited by some of Defendants' experts, both the TVPA and the PAHTL similarly define sex trafficking as selling a minor for sex without the requirement of force, fraud or coercion. The definition is nearly identical under both the TVPA and the PAHTL. It's not about the application of the law. It's just a footnote to define sex trafficking. There is nothing inflammatory or prejudicial in using the statute's definition of sex trafficking. The Court should deny Alpha's Motion.

Evidence is relevant if: "(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Pa.R.E. 401. "All relevant evidence is admissible, except as otherwise provided by law." Pa.R.E. 402. A court may exclude relevant evidence if its probative value is outweighed by a danger of one or more of the following: "unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." Pa.R.E. 403. Evidence will not be excluded simply because it is harmful to the defendant. Com. v. Antidormi, 84 A.3d 736, 750 (Pa. Super. Ct. 2014).

Here, the Court should not preclude the parties from using the Pennsylvania Human Trafficking Law to define sex trafficking. This case involves a young girl who was a victim of sex trafficking at the Roosevelt Inn where she was sold for sex as a minor. The PAHTL provides a definition of sex trafficking that is useful to the jury.

Naturally, Alpha's own liability expert relies on the PAHTL to define trafficking and relies on the definition when making their opinions. Alpha's liability expert John Shane includes a section of his expert report where he defines various terms, including "human trafficking" where he relies on the definition provided by the PAHTL:

Human Trafficking The State of Pennsylvania defines human trafficking as: a "...felony to recruit, entice, solicit, harbor, or transport a minor which results in the minor being subjected to sexual servitude" (Title 18 Pa. C.S. § 3011, et. seq.).

See Expert Report of Jon Shane at page 13, attached as Exhibit "A". He also uses the statute to define the term "sexual servitude":

Sexual Servitude The State of Pennsylvania defines sexual servitude as: "Any sex act or performance involving a sex act for which anything of value is directly or indirectly given, promised to or received by any individual or which is performed or provided by any individual and is induced or obtained from:

- (1) A minor.
- (2) Any other individual by any of the means set forth in section 3012(b).

See id. In addition, he uses the PAHTL to define the term “involuntary servitude.” See id. He relies on these definitions to make his opinions found later in his report when he explains different types of human trafficking. See id. at page 14 – 15.

Plaintiff’s liability expert Richard Hudak references the PAHTL in his expert report, while defining what sex trafficking is. He writes that sex trafficking involves “any person under the age of 18 in the sex industry” and “force, fraud or coercion is not needed when a child is involved.” See Expert Report of Richard Hudak, attached as Exhibit “B” at page 3.

In addition, Defendants’ other liability experts also define sex trafficking using a statute, under which Plaintiff has not asserted a claim. The Roosevelt Defendants’ expert Norman Bates relies on the definition from the federal Trafficking Victims Protection Act (“TVPA”). 22 U.S.C. § 7102, which has a near identical definition of as the PAHTL. Norman Bates writes in his expert report: “Whereas ‘human sex trafficking’ is defined under federal law as: ‘A commercial sex act induced by fraud, force, or coercion, or in which the person induced to perform such act has not attained 18 years of age.’ (22 USC Chapter 78. Sec. 7102(8)(2008)).” See Expert Report of Norman Bates at page 2, attached as Exhibit “C”. The Roosevelt Defendants’ expert Kimberly Mehlman-Orozco and Alpha’s expert James Francis also rely on this statute to define sex trafficking. See Expert Report of Kimberly Mehlman-Orozco at page 7, attached as Exhibit “D” and Supplemental Expert Report of James Francis at page 8, attached as Exhibit “E”. Plaintiff is not attempting to assert a civil claim under the PAHTL or the federal Trafficking Victims Protection Act. These statutes provide a near identical definition that is useful for the jury.

The PAHTL’s definition of trafficking is clearly relevant, and it’s not prejudicial to use the PAHTL to define important terms likely to be used at trial, evidenced by the use of the statute’s definition by both Plaintiff and Alpha’s liability experts.

For the foregoing reasons, Plaintiff respectfully requests that this Honorable Court enter the proposed Order denying Alpha's Motion in Limine to Preclude Reference to Pennsylvania's Human Trafficking Laws.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Motion in Limine of Defendant Alpha-Centurion Security, Inc. to Preclude Reference to Pennsylvania's Human Trafficking Laws*** was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

Justina L. Byers, Esquire
Charles S. Marion, Esquire
Kevin M. Eddy, Esquire
Blank Rome LLP
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Philadelphia, PA 19103

*Counsel for Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc.,
UFVS Management Company, LLC and Yagna Patel*

Thomas P. Wagner, Esq.
Robert W. Stanko, Esq.
Melanie J. Foreman, Esq.
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Philadelphia, PA 19103

President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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Pro Se Defendant

KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY:

EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

F. HEWITT

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	JURY TRIAL DEMANDED
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of the Motion in Limine to Preclude and Exclude References to Alleged Trafficking Victims filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), Plaintiff’s Response in Opposition, and any response thereto, it is hereby:

ORDERED and **DECreed** that the Roosevelt Defendants’ Motion in Limine is **DENIED**.

BY THE COURT:

J.

KLINE & SPECTER, P.C.

BY: THOMAS R. KLINE, ESQUIRE/28895
NADEEM A. BEZAR, ESQUIRE/63577
EMILY B. MARKS, ESQUIRE/204405
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Attorneys for Plaintiff M.B.

M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

**PLAINTIFF'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO
PRECLUDE AND EXCLUDE REFERENCES TO ALLEGED TRAFFICKING VICTIMS
FILED BY DEFENDANTS ROOSEVELT INN LLC, ROOSEVELT MOTOR INN, INC.,
UFVS MANAGEMENT COMPANY, LLC, AND YAGNA PATEL**

Motion in Limine to Preclude and Exclude References to Alleged Trafficking Victims filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel (collectively “Roosevelt Defendants”), as follows:

1. Denied as stated. This paragraph refers to Plaintiff’s Complaint and Plaintiff’s Amended Complaints, which are written documents that speak for themselves. Any characterizations of these documents are denied. See Plaintiff’s Fourth Amended Complaint, attached as Exhibit “A”.
2. Denied as stated. Abdul Lopez and Daiquan Davis sex trafficked Plaintiff M.B. at the Roosevelt when she was a minor. Both of these sex traffickers were convicted of the crime sex trafficking of a minor under 18 U.S.C. §§ 1591 and 1594(a). The Roosevelt Defendants filed a

Joinder Complaint joining Abdul Lopez and Daiquan Davis as Additional Defendants. All other averments are denied.

3. – 5. Denied as stated. These paragraphs refer to written statements from sex trafficking victims at the Roosevelt Inn. These statements are written documents that speak for themselves. Any characterizations of the documents are denied. See Victim Statements, attached as Exhibit “B”.

6. Denied as stated. This paragraph refers to the written statements of other victims of sex trafficking and Plaintiff’s Fourth Amended Complaint. These documents are written documents that speak for themselves. Any characterizations of the documents are denied. See Exs. A & B.

7. – 20. Denied. The averments in this paragraph are legal conclusions to which no response is required. The Roosevelt Defendants have filed this Motion in Limine attempting to exclude any evidence or testimony referencing other victims of sex trafficking, including those who were victims of sex trafficking at the Roosevelt Inn. This evidence is relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B. Evidence that is relevant and admissible cannot be precluded merely because it is unfavorable to Defendants’ position. See Commonwealth v. Dillon, 925 A.2d 131 (Pa. 2007).

Plaintiff’s claims center on Defendants’ negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

A landowner “is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006).

Evidence of other sex trafficking victims at the Roosevelt Inn shows the existence of dangers to the safety of those at the motel like M.B., requiring the motel to investigate and take reasonable precautions against the foreseeable harm suffered by Plaintiff M.B. See, e.g., Paliometros v. Loyola, 932 A.2d 128, 135 – 37 (Pa. Super. 2007) (plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel); Rabutino, 809 A.2d at 941 n.6 (finding that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”); Young v. Prism Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area); Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011) (reasoning that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by a plaintiff stabbed at a motel).

This evidence can also help to rebut the Roosevelt Defendants’ denial of knowledge of crimes occurring at the motel. During their depositions, the motel manager Yagna Patel and the

employees of the motel denied any knowledge about criminal activities going on at the Roosevelt Inn.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after M.B. left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited trial testimony from Co-Defendant Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014.¹ Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their defense. With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

Precluding this evidence now is premature given the potential that witnesses may open the door to this evidence through their testimony. See Com. v. Murphy, 182 A.3d 1002, 1005 (Pa. Super. Ct. 2018) (“A litigant opens the door to inadmissible evidence by presenting proof that creates a false impression refuted by the otherwise prohibited evidence.”) (internal citations and quotation marks omitted). The Court should thus deny the Roosevelt Defendants' Motion in Limine.

It is also premature to categorically exclude the victim statements when they can be admissible in a number of different ways. Plaintiff's counsel is well aware of the Pennsylvania

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff's counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

Rules of Evidence and the specific rules pertaining to hearsay evidence. The victim statements can be admissible in a number of different ways, including through expert testimony, refreshing a witness' recollection, or through impeachment. See, e.g., Pa. R.E. 703 ("If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted."). The Roosevelt Defendants' own liability experts rely on witness statements and discuss the experiences of other victims of sex trafficking in expert reports. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

WHEREFORE, Plaintiff respectfully request this Honorable Court deny the Roosevelt Defendants' Motion *in Limine*. An appropriate form of Order is attached.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

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M.B	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	JURY TRIAL DEMANDED
	:	

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION IN
LIMINE TO PRECLUDE AND EXCLUDE REFERENCES TO ALLEGED
TRAFFICKING VICTIMS FILED BY DEFENDANTS ROOSEVELT INN LLC,
ROOSEVELT MOTOR INN, INC., UFVS MANAGEMENT COMPANY, LLC, AND
YAGNA PATEL

I. PRELIMINARY STATEMENT

The Roosevelt Defendants have filed this Motion in Limine attempting to exclude any evidence or testimony referencing other victims of sex trafficking, including those who were victims of sex trafficking at the Roosevelt Inn. This evidence is relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed by criminal activity to the safety of those at the motel like M.B. Evidence of other sex trafficking victims at the Roosevelt Inn can be used to show dangerous criminal activity occurring at the motel, requiring the Roosevelt Defendants to investigate and take reasonable precautions to prevent the foreseeable harm suffered by Plaintiff M.B. This evidence also rebuts the Roosevelt Defendants' denial of knowledge of crimes occurring at the motel.

Counsel for the Roosevelt Defendants' own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants' counsel specifically elicited testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work after June 2014. They elicited this testimony in support of their position that staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel. The Roosevelt Defendants' own security expert relies on evidence from 2015 in his expert report. Plaintiff should certainly be able to use evidence from this time, if Defendants are going to use evidence from it in their defense.

Plaintiff's counsel is well aware of the Pennsylvania Rules of Evidence and the specific rules pertaining to hearsay evidence. It is premature to categorically exclude the victim statements when they can be admissible in a number of different ways, including through refreshing a witness's recollection, impeaching a witness, or expert testimony if reviewed and relied upon by an expert. The Roosevelt Defendants' own liability experts rely on witness statements, and the Roosevelt Defendants' expert Kimberly Mehlman-Orozco relies discusses the experiences of other victims of sex trafficking in her expert report. Precluding this evidence now is premature given the potential that witnesses may open the door to this evidence through their testimony. The Court should thus deny the Roosevelt Defendants' Motion in Limine.

II. QUESTION PRESENTED

- A. Should the Court deny the Roosevelt Defendants' Motion to preclude evidence or testimony referencing other sex trafficking victims at the Roosevelt Inn?

Suggested Answer: Yes. Evidence of other sex trafficking victims at the Roosevelt Inn is relevant in showing that the Roosevelt Defendants knew or should have known about the dangers posed to the safety of those at the motel like M.B. In addition, this evidence can

be used to rebut the testimony of motel employees who have denied knowledge of any criminal activity at the Roosevelt Inn. The victims' witness statements can also be admissible in different ways, including through expert testimony, as security experts reasonably rely on witness statements when forming their opinions. This, it would be premature to categorically exclude this evidence.

III. BRIEF FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV). See Plaintiff's 4th Amended Complaint attached as Exhibit "A".

Through the instant Motion, the Roosevelt Defendants seek to preclude the introduction of relevant evidence of other victims of sex trafficking at the Roosevelt Inn. Defendants seek the preclusion of this broad category of evidence, including but not limited to any the victims' "identities, their trafficking experiences, their activities at the Roosevelt Inn, law enforcement activities related to their claims; and all documents related to them, including their purported written statements." This evidence is relevant to proving Plaintiff's claims going to the issue of notice, and this evidence also rebuts the position taken by the employees of the Roosevelt Inn to deny knowledge of criminal activity occurring at the motel. The Roosevelt Defendants have also opened the door to this evidence through their questioning eliciting trial testimony from Daiquan

Davis for purported events after June 2014 in their defense. The Court should thus deny the Roosevelt Defendants' Motion.

IV. LEGAL ARGUMENT

A. Evidence of other sex trafficking victims at the Roosevelt Inn is relevant to show the existence of dangerous criminal activity at the Roosevelt Inn, requiring the motel to investigate and take reasonable steps to protect those at the motel like M.B.

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. See Ex. A at ¶¶ 68 – 87.

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 431 Pa. 432, 246 A.2d 875, 878 (Pa. 1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical

harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Various Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of past criminal activity in the area. For instance, the Superior Court has found that a plaintiff who was sexually assaulted at a motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous

twelve months—170 total calls including 43 disorderly crowds and fighting, twenty three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 274 Pa. Super. 427, 432–33, 418 A.2d 480, 483 (1980) (plaintiff demonstrated the business’ notice of her potential harm in case involving assault through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 2014 PA Super 195, 100 A.3d 594, 600–02 (2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of past criminal activity in the area. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). Courts have found that past criminal activity near a business can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp. 546, 550–51 (E.D. Pa. 1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-

2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business's liquor license and previous gun incidents).

Contrary to the Roosevelt Defendants' argument, evidence of other sex trafficking victims at the Roosevelt Inn is relevant to the issue of notice and contradicts the position taken by the Roosevelt Defendants that they were unaware of any criminal activity at the motel. This evidence would show that in the years leading up to when Plaintiff M.B. was sex trafficked at the Roosevelt Inn, other minors were also being sold for sex at the motel. These incidents of sex trafficking help to show the existence of extensive criminal activity, requiring the motel to investigate and take precautions against the reasonably foreseeable harm experienced by M.B. while at the motel. See Murphy, 418 A.2d at 483–84 (“[A]n examination of past criminal acts in the immediate vicinity of [the defendant's business] leads us to conclude the jury could infer that the occurrence of the instant crime was reasonably foreseeable.”); Young, 100 A.3d at 601–02 (“... section 344 does not require for the establishment of liability that closely similar incidents of criminality have occurred at or very near the location at which the later crime occurred.”); Rabutino, 809 A.2d at 942 (plaintiff shot at motel could prove notice requirement by showing that defendant motel “perpetuated an atmosphere where it was foreseeable that a harmful confrontation involving one or more of the unruly groups in the crowded hallways could have arisen.”).

This evidence may also be used to rebut the Roosevelt Inn witnesses' testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants' employees have generally denied knowing about criminal activity occurring at the

motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel at page 35 – 36, attached as Exhibit “C”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Ex. C at pages 309-310. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. C at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

Precluding this evidence now is premature given the “opening the door” doctrine. See Com. v. Murphy, 182 A.3d 1002, 1005 (Pa. Super. Ct. 2018) (“A litigant opens the door to inadmissible evidence by presenting proof that creates a false impression refuted by the otherwise prohibited evidence.”) (internal citations and quotation marks omitted). If motel staff called to testify create a false impression refuted by this evidence, then Plaintiff should be permitted to cross-examine them regarding this evidence.

Counsel for the Roosevelt Defendants’ own questioning opened the door for evidence of events that occurred after June 2014. The Roosevelt Defendants have introduced evidence in this trial of purported events that occurred after MB left the Roosevelt Inn in June 2014. The Roosevelt Defendants’ counsel elicited trial testimony from Daiquan Davis detailing when he used the Roosevelt Inn for commercial sex work:¹

Q: Mr. Davis, you mentioned that when I asked you where you engaged with commercial sex work and you listed several hotels. One of those hotels listed was the Roosevelt Inn. Are you able to tell me, sir, when you engaged in commercial sex work at the Roosevelt Inn?

¹ Trial testimony was taken of Co-Defendant Daiquan Davis on June 10, 2021. Plaintiff’s counsel has received a draft copy of the transcript from the court reporter. A final copy is forthcoming and will be provided upon receipt.

A: Yes ... The first date is October 1, 2014. The second date is October 24, 2014. The third date is October 23, 2014. The fourth date is November 24, 2014.

See 6/10/21 Trial Transcript Testimony of Daiquan Davis at page 23, attached as Exhibit "D".

Rather than stop that line of questioning, the Roosevelt Defendants chose to pursue testimony regarding purported events after June 2014 to support their position that there was no knowledge of criminal activity at the Roosevelt Inn. The Roosevelt Defendants elicited testimony from Co-Defendant Daiquan Davis that that Roosevelt Inn staff and manager, Yagna Patel, were "rule abiding" and that the staff and hotel manager were unaware of commercial sex activity. The Roosevelt Defendants' counsel asked Mr. Davis about an interaction that he had with the motel manager Yagna Patel where Mr. Patel allegedly told Mr. Davis to go back to his room when Mr. Patel saw Davis "loitering" in the hallway:

Q: Sir, did you ever interact with someone by the name of Yagna Patel?

A: I had one interaction, yes.

Q: Can you describe for me when that one interaction occurred?

A: I'm not -- I'm not sure an accurate date, but I was loitering in the hallways and he told me to either leave the hotel or go back to my assigned room.

Q: What did you do?

A: I went back to my room.

Q: Did you tell him you were a guest?

A: Yes.

Q: Did he ask you if you were a guest?

A: I volunteered that information before he got to ask me.

See Ex. D at page 28 – 29. Davis confirmed that this incident occurred in October or November 2014. See Ex. D at page 72.

During the trial testimony of Co-Defendant Davis, counsel for the Roosevelt Defendants specifically asked Daiquan Davis about his stays at the motel after June 2014:

Q: ... As part of the commercial sex work at the Roosevelt Inn in October of 2014 was the Roosevelt Inn or anyone that you're aware of at the Roosevelt Inn aware that you were engaging in prostitution?

A No.

See Ex. D at page 26.

With the Roosevelt Defendants introducing evidence and eliciting testimony about purported events after June 2014 in their defense, Plaintiff certainly should be able to use evidence to rebut the Roosevelt Defendants' claims that their staff and management did not permit illicit activity and were unaware that commercial sex activity occurred at the motel.

Witness statements can reasonably be relied upon by experts in the field of security. See Pa. R.E. 703 (“If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted.”). Along with his expert report, the Roosevelt Defendants’ security expert Norman Bates provided a copy of his forensic methodology relied upon when issuing his opinions. See Norman Bates’ Methodology, attached as Exhibit “E”. This methodology was issued as “Best Practices” by the International Association of Professional Security Consultants. The methodology cites witness statements as evidence typically reviewed by security expert witnesses pursuant to “Best Practices” published by the International Association of Professional Security Consultants. See Ex. E. The defense experts Norman Bates and Kimberly Mehlman-

Orozco also base part of their opinions on a review of witness statements. See Expert Report of Norman Bates at pages 56 – 58, 65, and 67, attached as Exhibit “F” and Expert Report of Kimberly Mehlman-Orozco at pages 21, attached as Exhibit “G”. Mehlman-Orozco also writes extensively in her expert report about the experiences of sex trafficking victims other than M.B. With the Roosevelt Defendants planning to use the experiences of other trafficking victims in their defense, Plaintiff should certainly be able use evidence of other sex trafficking victims at the Roosevelt Inn in support of her claims.

Although the victim statements may not be able to be read to the jury on their own, they can be admissible under various circumstances. The statements can be used by the witness who signed the statement to refresh their recollection. See Pa. R.E. 612 (“(a) Right to Refresh Memory. A witness may use a writing or other item to refresh memory for the purpose of testifying while testifying, or before testifying.”). The statements can also be used to impeach the person who made the statement in that person’s testimony. Pa. R.E. 613 (“(a) Witness’s Prior Inconsistent Statement to Impeach. A witness may be examined concerning a prior inconsistent statement made by the witness to impeach the witness’s credibility.”). It is premature to categorically exclude this evidence.

The evidence of other sex trafficking victims at the Roosevelt Inn is relevant to Plaintiff’s claims against the Roosevelt Defendants and the Defendant Alpha. Therefore, it’s premature to preclude this evidence.

V. CONCLUSION

The Court should deny the Roosevelt Defendants' Motion. An appropriate form of order is respectfully attached hereto for the Court's consideration.

Respectfully submitted,

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above ***Plaintiff's Response in Opposition to the Motion in Limine to Preclude and Exclude References to Alleged Trafficking Victims filed by Defendants Roosevelt Inn LLC, Roosevelt Motor Inn, Inc., UFVS Management Company, LLC, and Yagna Patel***, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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By first-class mail upon the following parties:

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KLINER & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
EMILY B. MARKS, ESQUIRE
Attorney for Plaintiff

Civil Administration

E. MEEGAN

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

ORDER

AND NOW, this _____ day of June, 2021, upon consideration of Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn, Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's Motion to Preclude and Exclude Inadmissible Evidence¹, and any response in opposition thereto, it is hereby:

ORDERED and **DECREED** that Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn, Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's Motion is **DENIED**.

BY THE COURT

J.

¹ The motion is only referred to as such for identification purposes.

KLINE & SPECTER, P.C.

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M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	
	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

**PLAINTIFF'S ANSWER IN OPPOSITION TO DEFENDANTS ROOSEVELT INN LLC
D/B/A ROOSEVELT INN, ROOSEVELT INN CAFÉ, ROOSEVELT MOTOR INN, INC.
D/B/A ROOSEVELT MOTOR INN, UFVS MANAGEMENT COMPANY, LLC AND
YAGNA PATEL'S MOTION TO PRECLUDE AND EXCLUDE INADMISSIBLE
EVIDENCE**

Plaintiff M.B. ("Plaintiff"), by and through her undersigned counsel, Kline & Specter, P.C., responds in opposition to the Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn, Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's Motion to Preclude or Exclude Inadmissible Evidence¹ as follows:

1. Denied. Defendants have not included a Paragraph "1" in their Motion in Limine and thus, no response is required.
2. Denied as stated. The operative complaint—Plaintiff's Fourth Amended Complaint—is a document that speaks for itself, and thus, any characterizations of the factual or legal claims contained therein, or in any prior version of a complaint in this matter, are denied.

¹ The motion is only referred to as such for identification purposes.

3. Denied as stated. Plaintiff identified Daiquan Davis and Abdul Lopez as her traffickers long before discovery in this lawsuit. It is also denied that Davis and Lopez were alleged traffickers.

4. Denied. See response to Paragraph 2.

5. Denied. See response to Paragraph 2. By way of further explanation, the cited articles or reports are documents that speak for themselves, and thus, any characterizations of Plaintiff's factual or legal claims contained therein are denied.

6. Denied. See response to Paragraph 5.

7. Denied. See response to Paragraph 5.

8. Denied. See response to Paragraph 5.

9. Denied. See response to Paragraph 5.

10. Denied. See response to Paragraph 5. By way of further explanation, this paragraph contains legal arguments and conclusions of law to which no response is required. Plaintiff's Pre-Trial Memorandum is a document that speaks for itself, and thus, any characterizations of the factual or legal claims contained therein are denied.

11.-14. Denied. See response to Paragraph 5. By way of further explanation, this paragraph contains legal arguments and conclusions of law to which no response is required. Plaintiff's Pre-Trial Memorandum is a document that speaks for itself, and thus, any characterizations of the factual or legal claims contained therein are denied.

15.-27. Denied. These paragraphs consist of legal arguments and conclusions of law to which no response is required. By way of further explanation, the evidence cited by Defendants is both relevant and admissible. The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable

care.” Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee’s protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. 1975); Pa. SSCJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

This evidence may also be used to rebut the Roosevelt Inn witnesses’ testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants’ employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel from July 19, 2018 at page 35 – 36, attached as Exhibit “A”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Deposition Transcript of Yagna Patel from September 5, 2019 at pages 309-310, attached as Exhibit “B”. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. B at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn.

In addition, the evidence of online reviews is not hearsay when offered to prove notice. See, e.g., Castellani v. Scranton Times, L.P., 124 A.3d 1229, 1244 (Pa. 2015) (“Out-of-court statements offered to establish notice to a defendant are not hearsay.”). Contrary to Defendants’ arguments, this evidence is not offered for the truth of the matter asserted, and thus it is not hearsay. See Fernandez v. City of Pittsburgh, 643 A.2d 1176, 1182 (Pa. Cmwlth. Ct. 1994) (“Out-of-court statements not offered to prove the truth of the matters asserted are not hearsay and are admissible if relevant for other proper purposes.”).

At the same time, even if the news reports, TripAdvisor reviews, and Facebook comments constitute hearsay, Pennsylvania courts have held that expert opinions based on evidence, such as hearsay, are admissible. See, e.g., Brown v. Halpern, 202 A.3d 687, 707 (Pa. Super. Ct. 2019), re-argument denied (Feb. 27, 2019), appeal denied, 217 A.3d 207 (Pa. 2019), and appeal denied, 217 A.3d 809 (Pa. 2019); Com. v. Brown, 139 A.3d 208, 218 (Pa. Super. Ct. 2016).

Despite arguing that these reports and reviews are inadmissible, Defendants' own experts rely on this evidence when making their opinions. The Roosevelt Defendants' security expert Norman Bates details news articles of traffickers and drug dealers who were arrested at the Roosevelt Inn. *See* Bates Report attached as Exhibit "D" at P. 3-4, 9. Mr. Bates has an entire section in his report entitled "**PRIOR CRIME AT SITE-BASED ON CCTV SURVEILLANCE FOOTAGE AND NEWS REPORTS.**" See Exhibit "D" at P. 9. If Defendants can rely on these news reports and reviews, then Plaintiff should be able to use this news articles describing sex trafficking and criminal activity occurring at the Roosevelt Inn in support of her claims and during cross-examination of witnesses.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter the attached Order denying Defendants' Motion in Limine.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____

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Attorneys for Plaintiff

M.B.	:	PHILADELPHIA COUNTY
	:	COURT OF COMMON PLEAS
v.	:	CIVIL TRIAL DIVISION
ROOSEVELT INN LLC	:	MARCH TERM, 2017
d/b/a ROOSEVELT INN and	:	NO.: 00712
ROOSEVELT INN CAFÉ, et al.	:	
	:	

**PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF HER RESPONSE TO
DEFENDANTS ROOSEVELT INN LLC D/B/A ROOSEVELT INN, ROOSEVELT INN
CAFÉ, ROOSEVELT MOTOR INN, INC. D/B/A ROOSEVELT MOTOR INN, UFVS
MANAGEMENT COMPANY, LLC AND YAGNA PATEL'S MOTION TO PRECLUDE
AND EXCLUDE INADMISSIBLE EVIDENCE**

Plaintiff M.B. ("Plaintiff"), by her counsel, Kline & Specter, P.C., respectfully submits this Memorandum of Law in Support of her Response to Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn, Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's ("Defendants") Motion to Preclude and Exclude Inadmissible Evidence.¹

I. PRELIMINARY STATEMENT

Plaintiff contends that the evidence cited by Defendants is not hearsay and is relevant on multiple grounds: (1) This evidence is admissible and relevant to the issue of notice. (2) These reviews would not be offered for the truth of the matter asserted; rather, the complaints can prove notice to the motel of need to investigate and consider reasonable precautions against the

¹ The motion is only referred to as such for identification purposes.

criminal conduct of third parties. (3) This evidence also is relevant to rebutting the testimony from the Roosevelt Inn employees that they were unaware of any criminal activity at the Roosevelt Inn.

Plaintiff's counsel is aware of the Pennsylvania Rules of Evidence and the specific rules pertaining to hearsay evidence. Television, print, and online news reports, TripAdvisor Reviews and Facebook Comments can be introduced at trial several different ways, including through expert testimony as Defendants' own liability experts news articles in their expert reports. The Court should thus deny Defendants' Motion.

II. QUESTION PRESENTED

1. Should this Honorable Court exclude the news reports, TripAdvisor reviews, and Facebook comments as irrelevant and inadmissible hearsay?

SUGGESTED ANSWER: *No. This evidence is not offered for the truth of the matter asserted, but instead to prove that Defendants were on notice of the criminal conduct occurring on its premises, including drug use and prostitution.*

III. BRIEF FACTUAL AND PROCEDURAL HISTORY

Plaintiff M.B. was the victim of sex trafficking that occurred at the Roosevelt Inn Motel when she was just 14 years-old from approximately January 2014 through June 6, 2014. Plaintiff filed a Complaint on March 10, 2017 against Defendants Roosevelt Inn LLC and Roosevelt Motor Inn, Inc., as owners of the motel; the motel's management company, UFVS Management Company, LLC; and the motel's manager, Yagna Patel (hereinafter collectively, "Roosevelt Defendants"). On September 5, 2017, Plaintiff filed an Amended Complaint adding the security company, Alpha-Centurion Security, Inc., as an additional defendant. In this action, Plaintiff has asserted claims under theories of common law Negligence (Counts - I, II) and Negligent Infliction of Emotional Distress (Counts III, IV).

Roosevelt Defendants filed this Motion in Limine attempting to exclude evidence of television, print, and online news reports, the TripAdvisor reviews, and the Facebook comments about the motel. Their Motion should be denied.

IV. THE COURT SHOULD PERMIT PLAINTIFF TO INTRODUCE THE TELEVISION, PRINT, AND ONLINE NEWS REPORTS, THE TRIPADVISOR REVIEWS, AND THE FACEBOOK COMMENTS AT TRIAL

Plaintiff's claims center on Defendants' negligence in failing to take appropriate steps to ensure the safety and protection of people at the Roosevelt Inn including M.B. from reasonably anticipated criminal conduct by third parties. As explained below, the news articles, TripAdvisor reviews, and Facebook comments are relevant to the issue of notice and likewise, not hearsay.

Accordingly, the Court should deny Defendants' motion.

A. THE TELEVISION, PRINT, AND ONLINE NEWS REPORTS, THE TRIPADVISOR REVIEWS, AND THE FACEBOOK COMMENTS ARE RELEVANT TO THE ISSUES IN THIS CASE

The duty owed to business invitees is the highest duty owed to any entrant upon land. "The landowner is under an affirmative duty to protect a business visitor against known dangers but also against those which might be discovered with reasonable care." Campsis v. Acme Markets, 915 A.2d 117 (Pa. Super. Ct. 2006). Thus, the possessor of land has a duty to conduct reasonable inspections of the property to discover dangerous conditions and to provide such warnings or safeguards as may be necessary for the business invitee's protection. Crotty v. Reading Industries, Inc., 345 A.2d 259 (Pa. Super. Ct. 1975); Pa. SSCJI 18.40 Owner of Land Duty of Care Owed to Invitees Generally.

Pennsylvania has adopted § 344 of the Restatement (Second) of Torts, which lays out the standard for businesses' liability for third party criminal acts committed against an invitee on the business premises. See Moran v. Valley Forge Drive-In Theater, Inc., 246 A.2d 875, 878 (Pa.

1968) (reasoning that § 344 applied when deciding whether a business was liable for the tortious or negligent acts by third parties).

The Restatement (Second) of Torts § 344 states:

A possessor of land who holds it open to the public for entry for his business purposes is subject to liability to members of the public while they are upon the land for such a purpose, for physical harm caused by the accidental, negligent, or intentionally harmful acts of third persons or animals, and by the failure of the possessor to exercise reasonable care to

- (a) discover that such acts are being done or are likely to be done, or
- (b) give a warning adequate to enable the visitors to avoid the harm, or otherwise to protect them against it.

Restatement (Second) of Torts § 344 (1965); Negligence--Failure to Prevent Intentional Harm to Business Invitees, Pa. SSJI (Civ), §18.120 (2020).

Comment f. to Section 344 provides that businesses may have a duty to police the premises adequately, if the businesses “know or have reason to know, from past experience that there is a likelihood of conduct on the part of the third person in general which is likely to endanger the safety of the visitor, even though he had no reason to expect it on the part of the particular individual.” Id. The Comment further states: “If the place or character of his business, or his past experience is such that he should reasonably anticipate a careless or criminal conduct on the part of a third person, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.” Id.

Pennsylvania state court decisions have found that a plaintiff can show that a business was on notice of the need to take reasonable precautions against the foreseeable potential harm suffered by the plaintiff when the plaintiff introduced evidence of past criminal activity in the area. For instance, the Superior Court has found that a plaintiff who was sexually assaulted at a

motel could show the harm that she faced was reasonably foreseeable by introducing evidence of rampant underage drinking at the motel. See Paliometros, 932 A.2d at 135-37. In another case, the Superior Court concluded that the harm experienced by a shooting victim at a motel was reasonably foreseeable based on the “alleged laissez faire reputation” of the motel “coupled with an extensive record of reported crimes in the locale during the previous twelve months—170 total calls including 43 disorderly crowds and fighting, twenty-three burglaries, five robberies (including one strong arm), 11 vandalisms, and 2 false imprisonments...”. Rabutino, 809 A.2d at 941 n.6. The Superior Court in Rabutino found that the extensive crimes “bore on the foreseeability that the illicit environment permitted at the [motel] would foster careless, reckless, and/or deliberate conduct causing harm to those present.” Id.; see also Murphy v. Penn Fruit Co., 418 A.2d 480, 483 (Pa. Super. Ct. 1980) (plaintiff demonstrated the business’ notice of her potential harm through evidence of “instances of disturbances, car thefts, muggings, purse snatches, drug use” occurring in the area); Young v. Prizm Asset Mgmt. Co., 100 A.3d 594, 600–02 (Pa. Super. Ct. 2014) (plaintiff met notice requirement in case involving assault where plaintiff introduced evidence of police calls made regarding fights, disorderly conduct, trespassing, drug activity, and shoplifting, along with a prior assault in the area).

Federal courts interpreting Pennsylvania law have also found that plaintiffs can meet the notice requirement by showing evidence of crimes in the area, other than the one committed against the plaintiff. In a case involving a stabbing victim at a motel, the court reasoned that the frequency of calls to the police for crimes generally could be a factor considered by the jury whether the motel had constructive notice of the foreseeable harm experienced by the plaintiff. See Bonilla v. Motel 6 Operating L.P., No. 2:09CV712, 2011 WL 4345786, at *5-*8 (W.D. Pa. Sept. 15, 2011). These courts have found that other crimes can be used to show that the crime suffered by the plaintiff was reasonably foreseeable. See Morgan v. Bucks Assocs., 428 F. Supp.

546, 550–51 (E.D. Pa.1977) (non-violent car thefts occurring on premises put the defendant on constructive notice that violent criminal conduct on the part of third persons, such as the assault of the plaintiff, might occur on the premises); Baker v. Solo Nightclub, LLC, No. CIV.A. 11-2380, 2013 WL 1927052, at *8 (E.D. Pa. May 9, 2013) (defendants were on notice of potential danger to plaintiff in case involving plaintiff who was a shooting victim, where the plaintiff showed past incidents of disorderly conduct and fights occurring in the area, along with a Commonwealth action to enjoin the business’s liquor license and previous gun incidents).

This evidence may also be used to rebut the Roosevelt Inn witnesses’ testimony stating they did not know of any criminal activity happening at the Roosevelt Inn. The Roosevelt Defendants’ employees have generally denied knowing about criminal activity occurring at the motel. The motel manager Yagna Patel denied ever seeing anyone committing a crime while watching the live cameras at the motel during his thirty years as manager of the Roosevelt Inn. See Deposition Transcript of Yagna Patel from July 19, 2018 at page 35 – 36, attached as Exhibit “A”. He denied knowing about any times staff called the police about guests’ suspected drug use or prostitution at the motel. See Deposition Transcript of Yagna Patel from September 5, 2019 at pages 309-310, attached as Exhibit “B”. He also denied knowledge of any arrests for prostitution at the Roosevelt Inn. See Ex. B at page 319. Similarly, the motel employees deposed during discovery denied knowledge of criminal activity occurring at the Roosevelt Inn. Certainly, Plaintiff can also use the news articles where Mr. Patel is quoted in his capacity as manager of the Roosevelt Inn.

Similarly, there is no basis for Defendants’ position that these news reports, internet reviews, and Facebook comments are barred by Rule 404(b)(1) as if offered to prove the Roosevelt Defendants’ character. In essence, Rule 404(b)(2)’s text is instructive: “[Evidence of a crime, wrong, or other act] may be admissible for another purpose, such as proving motive,

opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” That this evidence may be admissible for “another purpose” is broad, so long as an impermissible propensity inference does not follow. The listed reasons for such evidence, such as proving “motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident,” are not exceptions to Rule 404(b)(1), as Defendants argue, but are rather examples of permitted uses. See Pa.R.E. 404, Comment (“Pa.R.E. 404(b)(2) . . . contains a non-exhaustive list of purposes, other than proving character, for which a person’s other crimes wrongs or acts may be admissible.”). Again, this evidence is offered to show notice, among other things, but not that Defendants had any propensity for criminal conduct.

This evidence is relevant to Plaintiff’s claims against the Roosevelt Defendants and Defendant Alpha.

B. THE TELEVISION, PRINT, AND ONLINE NEWS REPORTS, THE TRIPADVISOR REVIEWS, AND THE FACEBOOK COMMENTS ARE NOT INADMISSIBLE HEARSAY

Where an out-of-court statement is not admitted for the purpose of proving the truth of what was said, the hearsay rule does not bar admission of that statement. See, e.g., Spotts v. Reidell, 497 A.2d 630 (Pa. Super. Ct. 1985); Bachman v. Artinger, 426 A.2d 702 (Pa. Super. Ct. 1981). “Testimony as to an out of court statement, written or oral, is not hearsay if offered to prove, not that the content of the statement was true, but that the statement was made.” Artinger, 426 A.2d at 705. “[A] witness may testify to a statement made to him when one of the issues involved is whether or not the statement was, in fact, made.” Com. v. Wright, 317 A.2d 271, 273 (Pa. 1974). The above-referenced news reports, TripAdvisor reviews, and Facebook comments are not offered to prove that the statements contained in them are true, but instead to prove that the statements were, in fact, made.

Pennsylvania courts permit a party to introduce customer reviews when those reviews are not offered for the truth of the matter asserted. See Am. Future Sys., Inc. v. BBB, 872 A.2d 1202, 1214 (Pa. Super. Ct. 2005), aff'd sub nom. Am. Future Sys., Inc. v. Better Bus. Bureau of E. Pennsylvania, 592 Pa. 66 (2007). In BBB, a defamation action, BBB introduced documentary evidence of 108 customer complaints that it had received, alleging billing for unordered merchandise. Id. The trial court overruled a hearsay objection and found that the complaints were not offered for their truth—that its opponent billed for unordered merchandise—but instead, to show that BBB had received complaints alleging the same. Id. Adding that the trial court properly gave a limiting instruction regarding this evidence, the Superior Court concluded that allowing BBB to introduce this evidence was not an abuse of discretion. Id.

In addition, the evidence of online reviews is not hearsay when offered to prove notice. See, e.g., Castellani v. Scranton Times, L.P., 124 A.3d 1229, 1244 (Pa. 2015) (“Out-of-court statements offered to establish notice to a defendant are not hearsay.”). Contrary to Defendants’ arguments, this evidence is not offered for the truth of the matter asserted, and thus it is not hearsay. See Fernandez v. City of Pittsburgh, 643 A.2d 1176, 1182 (Pa. Cmwlth. Ct. 1994) (“Out-of-court statements not offered to prove the truth of the matters asserted are not hearsay and are admissible if relevant for other proper purposes.”).

The Roosevelt Defendants have openly admitted to monitoring this type of evidence. The manager of the motel Yagna Patel, who is quoted in many of the cited news reports, testified that a motel employee named Candace Gordiano would read online reviews and tell him about various customer complaints, including complaints about drug use and prostitution at the Roosevelt Inn:

Q: What did Ms. Gordiano tell you people were saying on the websites about the Roosevelt?

A: Some people said good things, but some people – because we don't give them refund or they want money back or something, then they just make excuse and they write anything.

Q: Did she ever tell you that people on reviews noted that there was drug use at the Roosevelt?

A: Couple times, yes.

Q: Did she ever tell you that people on the reviews noted that there were -- that there was prostitution going on at the Roosevelt?

A: One or two time, yes.

See Ex. B at page 331 – 333. Rather than taking these complaints seriously and reconsidering the motel's security measures, Mr. Patel disregarded the complaints, assuming they were only people mad about getting a refund. Roosevelt Defendants' corporate designee, Anthony Uzzo, also testified that he does not review the Roosevelt Inn's online reviews, but his assistants do. See Deposition Transcript of Anthony attached as Exhibit "C" at pages 91-92. Despite his assistants relying on these postings, Uzzo denies seeing reviews about prostitution or drug use at the Roosevelt Inn. Id. at 93. In turn, the reviews also can be offered to impeach Uzzo's credibility.

Defendants' reliance on federal district court decisions and a Colorado state court decision is misplaced. First, in Williams v. Outback Steakhouse of Florida, LLC, No. 2:18-CV-11613, 2019 WL 2539823 (E.D. Mich. June 20, 2019), the plaintiff attempted to show that Outback received constructive notice of slippery floors through internet reviews. Id. at *3. The problem was, as the trial court saw it, that none of the reviews pertained to the location at which the plaintiff fell on an allegedly slippery floor. Id. Instead, these reviews pertained to conditions that purportedly existed at Outback restaurants in four other states. Id. Given this, the court found that the plaintiff failed to show a genuine dispute of material fact that Outback was

constructively notified of slippery floors at the location at issue. Id.; Mathew Enter., Inc. v. Chrysler Grp. LLC, No. 13-CV-04236-BLF, 2016 WL 11432038, at *3 (N.D. Cal. Sept. 21, 2016) (Yelp! reviews, which when offered as proof of how another party treated its customers, constituted hearsay); De Jongh v. Starbucks Corp., 2016 Colo. Dist. LEXIS 26, at *2 (Colo. Dist. Sept. 14, 2016) (deeming a Yelp! review inadmissible hearsay when that review was offered to prove the truth of the matter asserted).

At the same time, even if the news reports, TripAdvisor reviews, and Facebook comments constitute hearsay, Pennsylvania courts have held that expert opinions based on evidence, such as hearsay, are admissible. See, e.g., Brown v. Halpern, 202 A.3d 687, 707 (Pa. Super. Ct. 2019), re-argument denied (Feb. 27, 2019), appeal denied, 217 A.3d 207 (Pa. 2019), and appeal denied, 217 A.3d 809 (Pa. 2019); Com. v. Brown, 139 A.3d 208, 218 (Pa. Super. Ct. 2016). Despite arguing that these reports and reviews are inadmissible, Defendants' own experts rely on this evidence when making their opinions. The Roosevelt Defendants' security expert Norman Bates details news articles of traffickers and drug dealers who were arrested at the Roosevelt Inn. See Bates Report attached as Exhibit "D" at P. 3-4, 9. In fact. Mr. Bates has an entire section in his report entitled "**PRIOR CRIME AT SITE-BASED ON CCTV SURVEILLANCE FOOTAGE AND NEWS REPORTS.**" See Exhibit "D" at P. 9. If Defendants can rely on these news reports and reviews, then Plaintiff should be able to use this news articles describing sex trafficking and criminal activity occurring at the Roosevelt Inn in support of her claims and during cross-examination of witnesses.

V. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Honorable Court enter the proposed Order denying Roosevelt's Motion in Limine.

Respectfully submitted,

KLINE & SPECTER, P.C.

BY: */s/Emily B. Marks*

THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

VERIFICATION

I, EMILY B. MARKS, ESQUIRE, hereby state that I am the attorney for Plaintiff M.B. in this matter and hereby verify that the statements made in the foregoing motion are true and correct to the best of my knowledge, information and belief.

The undersigned understands that the statements contained therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

KLINE & SPECTER, P.C.

/s/Emily B. Marks

BY: _____
THOMAS R. KLINE, ESQUIRE
NADEEM A. BEZAR, ESQUIRE
EMILY B. MARKS, ESQUIRE
KYLE B. NOCHO, ESQUIRE
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Emily B. Marks, Esquire attorney for Plaintiff, do hereby certify that service of a true and correct copy of the above **Defendants' Motion in Limine to Preclude or Exclude Inadmissible Evidence**, was filed with the Court on June 14, 2021 and served by electronic filing upon counsel of record:

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Kevin M. Eddy, Esquire
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President of Defendant Alpha-Centurion Security, Inc.

By first-class mail upon the following parties:

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/s/Emily B. Marks

BY: _____

EMILY B. MARKS, ESQUIRE
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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION – CIVIL

M.B., a Minor by her Guardian, WILLIAM
A. CALANDRA, ESQ.,

Plaintiff,

v.

ROOSEVELT INN LLC d/b/a ROOSEVELT
INN and ROOSEVELT INN CAFÉ, et al.,

Defendants.

: March Term 2017

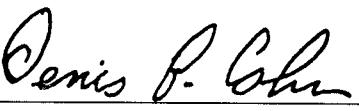
: Case No. 170300712

: Control No. 21060632

ORDER

AND NOW, this 15th day of June, 2021, upon consideration of Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn, Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's ("Defendants") Motion for Change of Venue, or in the Alternative, Change of Venire, and any response(s) thereto, it is hereby ORDERED and DECREED that said Motion DENIED without prejudice.¹

BY THE COURT:



DENIS P. COHEN, J.

170300712-B. Etal Vs Roosevelt Inn Llc Etal



17030071200538

¹ Nothing in this Order precludes Defendants from raising the issue of actual prejudice in a motion in limine.

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Attorneys for Defendants *Filed and Attested by the*
Roosevelt Inn LLC d/b/a Roosevelt Inn *Office of Judicial Records*
Roosevelt Inn Café, Roosevelt Inn *16 JUN 2021 11:56 am*
d/b/a Roosevelt Motor Inn, R. SCHREIBER
UFVS Management Company, LLC and
Yagna Patel



M.B., minor by her Guardian,
William A. Calandra, Esquire,

Plaintiff,

v.

ROOSEVELT INN LLC d/b/a ROOSEVELT
INN and ROOSEVELT INN CAFÉ, et al.,
ROOSEVELT MOTOR INN, INC. d/b/a
ROOSEVELT MOTOR INN, UFVS
MANAGEMENT COMPANY, LLC,
YAGNA PATEL and ALPHA-CENTURION
SECURITY, INC. d/b/a ALPHA CENTURION
SECURITY INC.

Defendants,

v.

DAIQUAN DAVIS and ABDUL LOPEZ

Additional Defendants.

SUGGESTION OF BANKRUPTCY

TO THE COURT, ALL PARTIES AND ATTORNEYS OF RECORD:

PLEASE BE ADVISED that the Defendants Roosevelt Inn, LLC and Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn (collectively referred to as the “Debtors”) filed for bankruptcy protection pursuant to Chapter 11 of the United States Bankruptcy Code on June 16, 2021 in the Bankruptcy Court for the United States Eastern District of Pennsylvania, at Case Nos. 21-11697 and 21-11698. A copy of the Notice of Bankruptcy Case Filing for each case is attached hereto as Exhibit A and Exhibit B. The Debtors are the title owner and operator of the property that is the subject of the instant litigation.

PLEASE BE FURTHER ADVISED that as a result of the commencement of the Debtors’ Chapter 11 cases, this action is automatically stayed pursuant to section 362 of the Bankruptcy Code as the filing of a bankruptcy petition automatically stays, “the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under [chapter 11], or to recover a claim against the debtor that arose before the commencement of the case under [chapter 11].” *See* 11 U.S.C. § 362(a)(1). The Bankruptcy Code further provides that the automatic stay applies to “any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the [bankruptcy case].” *See* 11 U.S.C. § 362(a)(6). Moreover, the automatic stay applies with equal force and effect to Defendants UFVS Management Company, Yagna Patel and Alpha Centurion Security Inc. because the continuation of any proceeding against UFVS Management Company, Yagna

Patel and Alpha Centurion Security Inc. could impair, impact, damage, or otherwise adversely affect the Debtors' bankruptcy estates and Debtors' reorganization.

BLANK ROME LLP

/s/ Charles S. Marion

Dated: June 16, 2021

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Roosevelt Inn Café, Roosevelt Motor Inn, Inc.
d/b/a Roosevelt Motor Inn,
UFVS Management Company, LLC and
Yagna Patel*

CERTIFICATE OF SERVICE

I, Justina L. Byers, Esquire, hereby certify that, on this 16th day of June 2021, I caused true and correct of copy of Defendants Roosevelt Inn LLC d/b/a Roosevelt Inn and Roosevelt Inn Café, Roosevelt Motor Inn, Inc. d/b/a Roosevelt Motor Inn, UFVS Management Company, LLC and Yagna Patel's Suggestion of Bankruptcy via electronic and/or First Class Mail upon the following:

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Additional Defendant

/s/ *Justina L. Byers*
JUSTINA L. BYERS

EXHIBIT A

United States Bankruptcy Court
Eastern District of Pennsylvania**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 06/16/2021 at 10:21 AM and filed on 06/16/2021.

Roosevelt Inn, LLC
7600 Roosevelt Boulevard
Philadelphia, PA 19152
Tax ID / EIN: 13-6172404
dba Roosevelt Inn

The case was filed by the debtor's attorney:

ARIS J. KARALIS
Karalis PC
1900 Spruce Street
Philadelphia, PA 19103
(215) 546-4500

The case was assigned case number 21-11697-amc to Judge Ashely M. Chan.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our *Internet* home page <http://ecf.paeb.uscourts.gov> or at the Clerk's Office, 900 Market Street, Suite 400, Philadelphia, PA 19107.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Timothy B McGrath
Clerk, U.S. Bankruptcy Court

Case ID: 170300712

PACER Service Center			
Transaction Receipt			
06/16/2021 10:36:34			
PACER Login:	jahysley	Client Code:	Roosevelt
Description:	Notice of Filing	Search Criteria:	21-11697-amc
Billable Pages:	1	Cost:	0.10

Case ID: 170300712

EXHIBIT B

United States Bankruptcy Court
Eastern District of Pennsylvania**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 11 of the United States Bankruptcy Code, entered on 06/16/2021 at 10:31 AM and filed on 06/16/2021.

Roosevelt Motor Inn, Inc.
7600 Roosevelt Boulevard
Philadelphia, PA 19152
Tax ID / EIN: 13-4032918
dba Roosevelt Inn

The case was filed by the debtor's attorney:

ARIS J. KARALIS
Karalis PC
1900 Spruce Street
Philadelphia, PA 19103
(215) 546-4500

The case was assigned case number 21-11698.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

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You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

Timothy B McGrath
Clerk, U.S. Bankruptcy Court

Case ID: 170300712

PACER Service Center			
Transaction Receipt			
06/16/2021 10:38:42			
PACER Login:	jahysley	Client Code:	Roosevelt
Description:	Notice of Filing	Search Criteria:	21-11698
Billable Pages:	1	Cost:	0.10

Case ID: 170300712